

JUVENILE CRIME CONTROL ACT OF 1997

MAY 1, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCCOLLUM, from the Committee on the Judiciary,
submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Juvenile Crime Control Act of 1997”.

TITLE I—REFORMING THE FEDERAL JUVENILE JUSTICE SYSTEM

SEC. 101. DELINQUENCY PROCEEDINGS OR CRIMINAL PROSECUTIONS IN DISTRICT COURTS.

Section 5032 of title 18, United States Code, is amended to read as follows:

“§ 5032. Delinquency proceedings or criminal prosecutions in district courts

“(a)(1) A juvenile alleged to have committed an offense against the United States or an act of juvenile delinquency may be surrendered to State authorities, but if not so surrendered, shall be proceeded against as a juvenile under this subsection or tried as an adult in the circumstances described in subsections (b) and (c).

“(2) A juvenile may be proceeded against as a juvenile in a court of the United States under this subsection if—

“(A) the alleged offense or act of juvenile delinquency is committed within the special maritime and territorial jurisdiction of the United States and is one for which the maximum authorized term of imprisonment does not exceed 6 months; or

“(B) the Attorney General, after investigation, certifies to the appropriate United States district court that—

“(i) the juvenile court or other appropriate court of a State does not have jurisdiction or declines to assume jurisdiction over the juvenile with respect to the alleged act of juvenile delinquency, and

“(ii) there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

“(3) If the Attorney General does not so certify or does not have authority to try such juvenile as an adult, such juvenile shall be surrendered to the appropriate legal authorities of such State.

“(4) If a juvenile alleged to have committed an act of juvenile delinquency is proceeded against as a juvenile under this section, any proceedings against the juvenile shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, and shall be open to the public, except that the court may exclude all or some members of the public, other than a victim unless the victim is a witness in the determination of guilt or innocence, if required by the interests of justice or if other good cause is shown. The Attorney General shall proceed by information or as authorized by section 3401(g) of this title, and no criminal prosecution shall be instituted except as provided in this chapter.

“(b)(1) Except as provided in paragraph (2), a juvenile shall be prosecuted as an adult—

“(A) if the juvenile has requested in writing upon advice of counsel to be prosecuted as an adult; or

“(B) if the juvenile is alleged to have committed an act after the juvenile attains the age of 14 years which if committed by an adult would be a serious violent felony or a serious drug offense described in section 3559(c) of this title, or a conspiracy or attempt to commit that felony or offense, which is punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846), or section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963).

“(2) The requirements of paragraph (1) do not apply if the Attorney General certifies to the appropriate United States district court that the interests of public safety are best served by proceeding against the juvenile as a juvenile.

“(c)(1) A juvenile may also be prosecuted as an adult if the juvenile is alleged to have committed an act after the juvenile has attained the age of 13 years which if committed by a juvenile after the juvenile attained the age of 14 years would require that the juvenile be prosecuted as an adult under subsection (b), upon approval of the Attorney General.

“(2) The Attorney General shall not delegate the authority to give the approval required under paragraph (1) to an officer or employee of the Department of Justice at a level lower than a Deputy Assistant Attorney General.

“(3) Such approval shall not be granted, with respect to such a juvenile who is subject to the criminal jurisdiction of an Indian tribal government and who is al-

leged to have committed an act over which, if committed by an adult, there would be Federal jurisdiction based solely on its commission in Indian country (as defined in section 1151), unless the governing body of the tribe having jurisdiction over the place in which the alleged act was committed has before such act notified the Attorney General in writing of its election that prosecution may take place under this subsection.

“(4) A juvenile may also be prosecuted as an adult if the juvenile is alleged to have committed an act which is not described in subsection (b)(1)(B) after the juvenile has attained the age of 14 years and which if committed by an adult would be—

“(A) a crime of violence (as defined in section 3156(a)(4)) that is a felony;

“(B) an offense described in section 844 (d), (k), or (l), or subsection (a)(6), (b), (g), (h), (j), (k), or (l) of section 924;

“(C) a violation of section 922(o) that is an offense under section 924(a)(2);

“(D) a violation of section 5861 of the Internal Revenue Code of 1986 that is an offense under section 5871 of such Code (26 U.S.C. 5871);

“(E) a conspiracy to commit an offense described in any of subparagraphs (A) through (D); or

“(F) an offense described in section 401 or 408 of the Controlled Substances Act (21 U.S.C. 841, 848) or a conspiracy or attempt to commit that offense which is punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846), or an offense punishable under section 409 or 419 of the Controlled Substances Act (21 U.S.C. 849, 860), or an offense described in section 1002, 1003, 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 955, or 959), or a conspiracy or attempt to commit that offense which is punishable under section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963).

“(d) A determination to approve or not to approve, or to institute or not to institute, a prosecution under subsection (b) or (c), and a determination to file or not to file, and the contents of, a certification under subsection (a) or (b) shall not be reviewable in any court.

“(e) In a prosecution under subsection (b) or (c), the juvenile may be prosecuted and convicted as an adult for any other offense which is properly joined under the Federal Rules of Criminal Procedure, and may also be convicted of a lesser included offense.

“(f) The Attorney General shall annually report to Congress—

“(1) the number of juveniles adjudicated delinquent or tried as adults in Federal court;

“(2) the race, ethnicity, and gender of those juveniles;

“(3) the number of those juveniles who were abused or neglected by their families, to the extent such information is available; and

“(4) the number and types of assault crimes, such as rapes and beatings, committed against juveniles while incarcerated in connection with the adjudication or conviction.

“(g) As used in this section—

“(1) the term ‘State’ includes a State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States and, with regard to an act of juvenile delinquency that would have been a misdemeanor if committed by an adult, a federally recognized tribe; and

“(2) the term ‘serious violent felony’ has the same meaning given that term in section 3559(c)(2)(F)(i).”

SEC. 102. CUSTODY PRIOR TO APPEARANCE BEFORE JUDICIAL OFFICER.

Section 5033 of title 18, United States Code, is amended to read as follows:

“§ 5033. Custody prior to appearance before judicial officer

“(a) Whenever a juvenile is taken into custody, the arresting officer shall immediately advise such juvenile of the juvenile’s rights, in language comprehensible to a juvenile. The arresting officer shall promptly take reasonable steps to notify the juvenile’s parents, guardian, or custodian of such custody, of the rights of the juvenile, and of the nature of the alleged offense.

“(b) The juvenile shall be taken before a judicial officer without unreasonable delay.”

SEC. 103. TECHNICAL AND CONFORMING AMENDMENTS TO SECTION 5034.

Section 5034 of title 18, United States Code, is amended—

(1) by striking “The” each place it appears at the beginning of a paragraph and inserting “the”;

(2) by striking “If” at the beginning of the 3rd paragraph and inserting “if”;

(3)(A) by designating the 3 paragraphs as paragraphs (1), (2), and (3), respectively; and

(B) by moving such designated paragraphs 2 ems to the right; and

(4) by inserting at the beginning of such section before those paragraphs the following:

“In a proceeding under section 5032(a)—”.

SEC. 104. DETENTION PRIOR TO DISPOSITION OR SENTENCING.

Section 5035 of title 18, United States Code, is amended to read as follows:

“§ 5035. Detention prior to disposition or sentencing

“(a)(1) A juvenile who has attained the age of 16 years and who is prosecuted pursuant to subsection (b) or (c) of section 5032, if detained at any time prior to sentencing, shall be detained in such suitable place as the Attorney General may designate. Preference shall be given to a place located within, or within a reasonable distance of, the district in which the juvenile is being prosecuted.

“(2) A juvenile less than 16 years of age prosecuted pursuant to subsection (b) or (c) of section 5032, if detained at any time prior to sentencing, shall be detained in a suitable juvenile facility located within, or within a reasonable distance of, the district in which the juvenile is being prosecuted. If such a facility is not available, such a juvenile may be detained in any other suitable facility located within, or within a reasonable distance of, such district. If no such facility is available, such a juvenile may be detained in any other suitable place as the Attorney General may designate.

“(3) To the maximum extent feasible, a juvenile less than 16 years of age prosecuted pursuant to subsection (b) or (c) of section 5032 shall not be detained prior to sentencing in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges.

“(b) A juvenile proceeded against under section 5032 shall not be detained prior to disposition in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges.

“(c) Every juvenile who is detained prior to disposition or sentencing shall be provided with reasonable safety and security and with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment.”.

SEC. 105. SPEEDY TRIAL.

Section 5036 of title 18, United States Code, is amended by—

(1) striking “If an alleged delinquent” and inserting “If a juvenile proceeded against under section 5032(a)”;

(2) striking “thirty” and inserting “45”; and

(3) striking “the court,” and all that follows through the end of the section and inserting “the court. The periods of exclusion under section 3161(h) of this title shall apply to this section.”.

SEC. 106. DISPOSITION; AVAILABILITY OF INCREASED DETENTION, FINES AND SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

(a) DISPOSITION.—Section 5037 of title 18, United States Code, is amended to read as follows:

“§ 5037. Disposition

“(a) In a proceeding under section 5032(a), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposition of the juvenile no later than 40 court days after the finding of juvenile delinquency, unless the court has ordered further study pursuant to subsection (e). A predisposition report shall be prepared by the probation officer who shall promptly provide a copy to the juvenile, the juvenile’s counsel, and the attorney for the Government. Victim impact information shall be included in the report, and victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or present any information in relation to the disposition. After the dispositional hearing, and after considering the sanctions recommended pursuant to subsection (f), the court shall impose an appropriate sanction, including the ordering of restitution pursuant to section 3556 of this title. The court may order the juvenile’s parent, guardian, or custodian to be present at the dispositional hearing and the imposition of sanctions and may issue orders directed to such parent, guardian, custodian regarding conduct with respect to the juvenile. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to chapter 207.

“(b) The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the maximum term that would be author-

ized by section 3561(c) if the juvenile had been tried and convicted as an adult. Sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

“(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the lesser of—

“(1) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult;

“(2) ten years; or

“(3) the date when the juvenile becomes twenty-six years old.

Section 3624 is applicable to an order placing a juvenile in detention.

“(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond 5 years. Subsections (c) through (i) of section 3583 apply to an order placing a juvenile on supervised release.

“(e) If the court desires more detailed information concerning a juvenile alleged to have committed an act of juvenile delinquency or a juvenile adjudicated delinquent, it may commit the juvenile, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency or entity. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information. In the case of an alleged juvenile delinquent, inpatient study may be ordered only with the consent of the juvenile and the juvenile’s attorney. The agency or entity shall make a study of all matters relevant to the alleged or adjudicated delinquent behavior and the court’s inquiry. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within 30 days after the commitment of the juvenile, unless the court grants additional time. Time spent in custody under this subsection shall be excluded for purposes of section 5036.

“(f)(1) The United States Sentencing Commission, in consultation with the Attorney General, shall develop a list of possible sanctions for juveniles adjudicated delinquent.

“(2) Such list shall—

“(A) be comprehensive in nature and encompass punishments of varying levels of severity;

“(B) include terms of confinement; and

“(C) provide punishments that escalate in severity with each additional or subsequent more serious delinquent conduct.”.

(b) EFFECTIVE DATE.—The Sentencing Commission shall develop the list required pursuant to section 5037(f), as amended by subsection (a), not later than 180 days after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT TO ADULT SENTENCING SECTION.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

“(g) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN PROSECUTIONS OF PERSONS UNDER THE AGE OF 16.—Notwithstanding any other provision of law, in the case of a defendant convicted for conduct that occurred before the juvenile attained the age of 16 years, the court shall impose a sentence without regard to any statutory minimum sentence, if the court finds at sentencing, after affording the Government an opportunity to make a recommendation, that the juvenile has not been previously adjudicated delinquent for or convicted of an offense described in section 5032(b)(1)(B).”.

SEC. 107. JUVENILE RECORDS AND FINGERPRINTING.

Section 5038 of title 18, United States Code, is amended to read as follows:

“§ 5038. Juvenile records and fingerprinting

“(a)(1) Throughout and upon the completion of the juvenile delinquency proceeding under section 5032(a), the court shall keep a record relating to the arrest and adjudication that is—

“(A) equivalent to the record that would be kept of an adult arrest and conviction for such an offense; and

“(B) retained for a period of time that is equal to the period of time records are kept for adult convictions.

“(2) Such records shall be made available for official purposes, including communications with any victim or, in the case of a deceased victim, such victim’s representative, or school officials, and to the public to the same extent as court records regarding the criminal prosecutions of adults are available.

“(b) The Attorney General shall establish guidelines for fingerprinting and photographing a juvenile who is the subject of any proceeding authorized under this chapter. Such guidelines shall address the availability of pictures of any juvenile

taken into custody but not prosecuted as an adult. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult offenders.

“(c) Whenever a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 924(a)(6), the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication.

“(d) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure, or availability is permitted under this section whenever the same circumstances exist.”.

SEC. 108. TECHNICAL AMENDMENTS OF SECTIONS 5031 AND 5034.

(a) **ELIMINATION OF PRONOUNS.**—Sections 5031 and 5034 of title 18, United States Code, are each amended by striking “his” each place it appears and inserting “the juvenile’s”.

(b) **UPDATING OF REFERENCE.**—Section 5034 of title 18, United States Code, is amended—

(1) in the heading of such section, by striking “**magistrate**” and inserting “**judicial officer**”; and

(2) by striking “magistrate” each place it appears and inserting “judicial officer”.

SEC. 109. CLERICAL AMENDMENTS TO TABLE OF SECTIONS FOR CHAPTER 403.

The heading and the table of sections at the beginning of chapter 403 of title 18, United States Code, is amended to read as follows:

“CHAPTER 403—JUVENILE DELINQUENCY

“Sec.

“5031. Definitions.

“5032. Delinquency proceedings or criminal prosecutions in district courts.

“5033. Custody prior to appearance before judicial officer.

“5034. Duties of judicial officer.

“5035. Detention prior to disposition or sentencing.

“5036. Speedy trial.

“5037. Disposition.

“5038. Juvenile records and fingerprinting.

“5039. Commitment.

“5040. Support.

“5041. Repealed.

“5042. Revocation of probation.”.

TITLE II—APPREHENDING ARMED VIOLENT YOUTH

SEC. 201. ARMED VIOLENT YOUTH APPREHENSION DIRECTIVE.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Attorney General of the United States shall establish an armed violent youth apprehension program consistent with the following requirements:

(1) Each United States attorney shall designate at least 1 assistant United States attorney to prosecute, on either a full- or part-time basis, armed violent youth.

(2) Each United States attorney shall establish an armed youth criminal apprehension task force comprised of appropriate law enforcement representatives. The task force shall develop strategies for removing armed violent youth from the streets, taking into consideration—

(A) the importance of severe punishment in deterring armed violent youth crime;

(B) the effectiveness of Federal and State laws pertaining to apprehension and prosecution of armed violent youth;

(C) the resources available to each law enforcement agency participating in the task force;

(D) the nature and extent of the violent youth crime occurring in the district for which the United States attorney is appointed; and

(E) the principle of limited Federal involvement in the prosecution of crimes traditionally prosecuted in State and local jurisdictions.

(3) Not less frequently than bimonthly, the Attorney General shall require each United States attorney to report to the Department of Justice the number of youths charged with, or convicted of, violating section 922(g) or 924 of title 18, United States Code, in the district for which the United States attorney is appointed and the number of youths referred to a State for prosecution for similar offenses.

(4) Not less frequently than twice annually, the Attorney General shall submit to the Congress a compilation of the information received by the Department of Justice pursuant to paragraph (3) and a report on all waivers granted under subsection (b).

(b) WAIVER AUTHORITY.—

(1) REQUEST FOR WAIVER.—A United States attorney may request the Attorney General to waive the requirements of subsection (a) with respect to the United States attorney.

(2) PROVISION OF WAIVER.—The Attorney General may waive the requirements of subsection (a) pursuant to a request made under paragraph (1), in accordance with guidelines which shall be established by the Attorney General. In establishing the guidelines, the Attorney General shall take into consideration the number of assistant United States attorneys in the office of the United States attorney making the request and the level of violent youth crime committed in the district for which the United States attorney is appointed.

(c) ARMED VIOLENT YOUTH DEFINED.—As used in this section, the term “armed violent youth” means a person who has not attained 18 years of age and is accused of violating—

(1) section 922(g)(1) of title 18, United States Code, having been previously convicted of—

(A) a violent crime; or

(B) conduct that would have been a violent crime had the person been an adult; or

(2) section 924 of such title.

(d) SUNSET.—This section shall have no force or effect after the 5-year period that begins 180 days after the date of the enactment of this Act.

TITLE III—ACCOUNTABILITY FOR JUVENILE OFFENDERS AND PUBLIC PROTECTION INCENTIVE GRANTS

SEC. 301. SHORT TITLE.

This title may be cited as the “Juvenile Accountability Block Grants Act of 1997”.

SEC. 302. BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended to read as follows:

“PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

“SEC. 1801. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to eligible units.

“(b) AUTHORIZED ACTIVITIES.—Amounts paid to a State, a unit of local government, or an eligible unit under this part shall be used by the State, unit of local government, or eligible unit for the purpose of promoting greater accountability in the juvenile justice system, which includes—

“(1) building, expanding or operating temporary or permanent juvenile correction or detention facilities;

“(2) developing and administering accountability-based sanctions for juvenile offenders;

“(3) hiring additional juvenile judges, probation officers, and court-appointed defenders, and funding pre-trial services for juveniles, to ensure the smooth and expeditious administration of the juvenile justice system;

“(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and backlogs reduced;

“(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively;

“(6) providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

“(7) providing funding to enable juvenile courts and juvenile probation offices to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism;

“(8) the establishment of court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders;

“(9) the establishment of drug court programs for juveniles so as to provide continuing judicial supervision over juvenile offenders with substance abuse problems and to provide the integrated administration of other sanctions and services;

“(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts; and

“(11) establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies, or which are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence.

“SEC. 1802. GRANT ELIGIBILITY.

“(a) **STATE ELIGIBILITY.**—To be eligible to receive a grant under this section, a State shall submit to the Director an application at such time, in such form, and containing such assurances and information as the Director may require by rule, including assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or will have in effect not later than 1 year after the date a State submits such application) laws, or has implemented (or will implement not later than 1 year after the date a State submits such application) policies and programs, that—

“(1) ensure that juveniles who commit an act after attaining 15 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution as a matter of law, or that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults;

“(2) impose sanctions on juvenile offenders for every delinquent or criminal act, or violation of probation, ensuring that such sanctions escalate in severity with each subsequent, more serious delinquent or criminal act, or violation of probation, including such accountability-based sanctions as—

“(A) restitution;

“(B) community service;

“(C) punishment imposed by community accountability councils comprised of individuals from the offender’s and victim’s communities;

“(D) fines; and

“(E) short-term confinement;

“(3) establish at a minimum a system of records relating to any adjudication of a juvenile who has a prior delinquency adjudication and who is adjudicated delinquent for conduct that if committed by an adult would constitute a felony under Federal or State law which is a system equivalent to that maintained for adults who commit felonies under Federal or State law; and

“(4) ensure that State law does not prevent a juvenile court judge from issuing a court order against a parent, guardian, or custodian of a juvenile offender regarding the supervision of such an offender and from imposing sanctions for a violation of such an order.

“(b) LOCAL ELIGIBILITY.—

“(1) **SUBGRANT ELIGIBILITY.**—To be eligible to receive a subgrant, a unit of local government shall provide such assurances to the State as the State shall require, that, to the maximum extent applicable, the unit of local government has laws or policies and programs which—

“(A) ensure that juveniles who commit an act after attaining 15 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution as a matter of law, or that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults;

“(B) impose a sanction for every delinquent or criminal act, or violation of probation, ensuring that such sanctions escalate in severity with each subsequent, more serious delinquent or criminal act, or violation of probation; and

“(C) ensure that there is a system of records relating to any adjudication of a juvenile who is adjudicated delinquent for conduct that if committed by an adult would constitute a felony under Federal or State law which is a system equivalent to that maintained for adults who commit felonies under Federal or State law.

“(2) SPECIAL RULE.—The requirements of paragraph (1) shall apply to an eligible unit that receives funds from the Director under section 1803, except that information that would otherwise be submitted to the State shall be submitted to the Director.

“SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

“(a) STATE ALLOCATION.—

“(1) IN GENERAL.—In accordance with regulations promulgated pursuant to this part, the Director shall allocate—

“(A) 0.25 percent for each State; and

“(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

“(2) PROPORTIONAL REDUCTION.—If amounts available to carry out paragraph (1)(A) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1)(A) for such period, then the Director shall reduce payments under paragraph (1)(A) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

“(3) PROHIBITION.—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

“(b) LOCAL DISTRIBUTION.—

“(1) IN GENERAL.—Each State which receives funds under subsection (a)(1) in a fiscal year shall distribute not less than 75 percent of such amounts received among units of local government, for the purposes specified in section 1801. In making such distribution the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

“(A) the sum of—

“(i) the product of—

“(I) two-thirds; multiplied by

“(II) the average law enforcement expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

“(ii) the product of—

“(I) one-third; multiplied by

“(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

“(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

“(2) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

“(3) REALLOCATION.—The amount of any unit of local government’s allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

“(c) UNAVAILABILITY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—If the State has reason to believe that the reported rate of part 1 violent crimes or law enforcement expenditure for a unit of local government is insufficient or inaccurate, the State shall—

“(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

“(2) if necessary, use the best available comparable data regarding the number of violent crimes or law enforcement expenditure for the relevant years for the unit of local government.

“(d) LOCAL GOVERNMENT WITH ALLOCATIONS LESS THAN \$5,000.—If under this section a unit of local government is allocated less than \$5,000 for a payment period, the amount allotted shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

“(e) DIRECT GRANTS TO ELIGIBLE UNITS.—

“(1) IN GENERAL.—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Director, the Director shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to eligible units which meet the requirements for funding under subsection (b).

“(2) AWARD BASIS.—In addition to the qualification requirements for direct grants for eligible units the Director may use the average amount allocated by the States to like governmental units as a basis for awarding grants under this section.

“SEC. 1804. REGULATIONS.

“The Director shall issue regulations establishing procedures under which an eligible State or unit of local government that receives funds under section 1803 is required to provide notice to the Director regarding the proposed use of funds made available under this part.

“SEC. 1805. PAYMENT REQUIREMENTS.

“(a) TIMING OF PAYMENTS.—The Director shall pay each State or unit of local government that receives funds under section 1803 that has submitted an application under this part not later than—

“(1) 90 days after the date that the amount is available, or

“(2) the first day of the payment period if the State has provided the Director with the assurances required by subsection (c),
whichever is later.

“(b) REPAYMENT OF UNEXPENDED AMOUNTS.—

“(1) REPAYMENT REQUIRED.—From amounts appropriated under this part, a State shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is not expended by the State within 2 years after receipt of such funds from the Director.

“(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

“(3) DEPOSIT OF AMOUNTS REPAYED.—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to States.

“(c) ADMINISTRATIVE COSTS.—A State, unit of local government or eligible unit that receives funds under this part may use not more than one percent of such funds to pay for administrative costs.

“(d) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States, units of local government, or eligible units shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

“(e) MATCHING FUNDS.—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a program or proposal funded under this part.

“SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

“Funds or a portion of funds allocated under this part may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 1801(a)(2).

“SEC. 1807. ADMINISTRATIVE PROVISIONS.

“(a) IN GENERAL.—A State that receives funds under this part shall—

“(1) establish a trust fund in which the government will deposit all payments received under this part; and

“(2) use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the State;

“(3) designate an official of the State to submit reports as the Director reasonably requires, in addition to the annual reports required under this part; and

“(4) spend the funds only for the purposes under section 1801(b).

“(b) TITLE I PROVISIONS.—The administrative provisions of part H shall apply to this part and for purposes of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

“SEC. 1808. DEFINITIONS.

“For the purposes of this part:

“(1) The term ‘unit of local government’ means—

“(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes; and

“(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

“(2) The term ‘eligible unit’ means a unit of local government which may receive funds under section 1803(e).

“(3) The term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 1803(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

“(4) The term ‘juvenile’ means an individual who is 17 years of age or younger.

“(5) The term ‘law enforcement expenditures’ means the expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

“(6) The term ‘part 1 violent crimes’ means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

“(7) The term ‘Director’ means the Director of the Bureau of Justice Assistance.

“SEC. 1809. AUTHORIZATION OF APPROPRIATIONS.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part—

“(1) \$500,000,000 for fiscal year 1998;

“(2) \$500,000,000 for fiscal year 1999; and

“(3) \$500,000,000 for fiscal year 2000.

“(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—Not more than 1 percent of the amount authorized to be appropriated under subsection (a), with such amounts to remain available until expended, for each of the fiscal years 1998 through 2000 shall be available to the Director for studying the overall effectiveness and efficiency of the provisions of this part, assuring compliance with the provisions of this part, and for administrative costs to carry out the purposes of this part. The Director shall establish and execute an oversight plan for monitoring the activities of grant recipients.

“(c) FUNDING SOURCE.—Appropriations for activities authorized in this part may be made from the Violent Crime Reduction Trust Fund.”.

(b) CLERICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking the item relating to part R and inserting the following:

“PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

“Sec. 1801. Program authorized.

“Sec. 1802. Grant eligibility.

“Sec. 1803. Allocation and distribution of funds.

“Sec. 1804. Regulations.

“Sec. 1805. Payment requirements.

“Sec. 1806. Utilization of private sector.

“Sec. 1807. Administrative provisions.

“Sec. 1808. Definitions.

“Sec. 1809. Authorization of appropriations.”.

PURPOSE AND SUMMARY

H.R. 3, the “Juvenile Crime Control Act of 1997,” is intended to strengthen the already existing federal juvenile justice system and to help States and localities restore accountability to their juvenile justice systems. The bill consists of three titles.

TITLE I: REFORMING THE FEDERAL JUVENILE JUSTICE SYSTEM

Section 5302 of title 18, United States Code, contains certain procedural barriers to prosecuting dangerous juvenile criminals whose offenses fall within federal jurisdiction, as well as out-dated restrictions on federal juvenile delinquency proceedings. Title I reforms and strengthens the already existing federal juvenile justice system, with the aim of providing a model system for the States. Title I includes the following provisions:

A presumption in favor of adult prosecution (at the discretion of the prosecutor) for a juvenile 14 or older who is not handed over to State authorities and who commits a federal serious violent felony or a federal serious drug offense;

Optional adult prosecution of a juvenile 13 or older who commits a federal violent crime or a federal drug offense;

Optional juvenile proceedings for a youth accused of delinquency;

Greater flexibility regarding where a juvenile offender may be confined pre- and post-conviction, while maintaining current adult/juvenile offender separation requirements;

Preservation of and public access to juvenile criminal records;

Fingerprinting and photographing of juvenile criminals; and

A wider range of sanctions for juveniles adjudicated delinquent.

TITLE II: APPREHENDING ARMED VIOLENT YOUTH

Title II directs the Attorney General to establish within 6 months after enactment of the bill an “armed violent youth apprehension program.” Elements of the program include—(1) the designation of at least one federal prosecutor in every U.S. attorney’s office to prosecute federal laws pertaining to armed violent youth; (2) a requirement that every U.S. attorney establish a task force within his or her federal district to coordinate with State and local law enforcement the apprehension of armed violent youth; (3) bi-monthly reports from U.S. attorneys concerning the number of armed violent youth arrested and prosecuted; and (4) semiannual reports from the Attorney General to the Congress summarizing the information received from the U.S. attorneys.

TITLE III: ACCOUNTABILITY FOR JUVENILE OFFENDERS AND PUBLIC PROTECTION INCENTIVE GRANTS

Title III authorizes the Director of the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice to provide grants to States and localities for the purpose of promoting greater accountability in the juvenile justice system. Grants are provided to support the following activities:

(1) building, expanding or operating juvenile detention and corrections facilities;

(2) developing and administering accountability-based sanctions for juvenile offenders;

(3) hiring additional juvenile judges, probation officers, and court-appointed defenders to promote the efficient and expeditious administration of juvenile justice;

(4) hiring additional prosecutors to target violent juvenile offenders;

(5) providing funding to enable prosecutors to address drug, gang, and youth violence more effectively;

(6) providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

(7) providing funding to enable juvenile courts and probation offices to be more effective and efficient in holding juvenile offenders accountable;

(8) establishing court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders;

(9) establishing drug court programs for juvenile offenders;

(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to identify, control, supervise and treat serious juvenile offenders;

(11) establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies, or which are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence.

The title authorizes \$500 million a year over three years (fiscal years 1998–2000) to be provided to eligible States and localities that have in effect (or will have in effect within 1 year) laws, policies and programs that:

(1) ensure that juveniles who commit an act after attaining 15 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution as a matter of law, or that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults;

(2) provide a system of graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, and escalating the sanction with each subsequent, more serious delinquent or criminal act;

(3) establish at a minimum a system of records relating to any adjudication of a juvenile who has a prior delinquency adjudication and who is adjudicated delinquent for conduct that would be felony if committed by adults which is a system equivalent to that maintained for adults who commit felonies; and

(4) ensure that state law does not prevent a juvenile court judge from issuing a court order against a parent or guardian of a juvenile offender regarding the supervision of such an of-

fender and from imposing sanctions for a violation of such an order.

The title requires that 75 percent of the funding received by a State be provided to localities to be used to promote accountability in their juvenile justice systems. This pass-through provision is intended to provide maximum resources to county governments in particular, which bear the largest burden in the administration of juvenile justice systems. Similar to the 1996 truth-in-sentencing legislation for the States, the accountability incentive grants would encourage the States and localities to enact accountability-based juvenile crime reforms, and provide much needed assistance to the growing number of States and localities that have already enacted such reforms.

BACKGROUND AND NEED FOR THE LEGISLATION

Throughout the United States today, State and local juvenile justice systems are failing to hold juvenile offenders accountable for their wrongdoing. The statistics describe a juvenile justice system in collapse.

Only 10 percent of violent juvenile offenders—those who commit murder, rape, robbery, and assault—receive any sort of secure confinement. Rates of secure confinement for violent juveniles are the same as they were in 1985 and have actually decreased in the last four years. Many juveniles receive no punishment at all: Nearly 40 percent of violent juvenile offenders who come into contact with the justice system have their cases dismissed. By the time the courts finally lock up an older teenager on a violent crime charge, the offender often has a long rap sheet with arrests starting in the early teens. According to the Justice Department, 43 percent of juveniles in state institutions had more than five prior arrests, and 20 percent had been arrested more than 10 times. Approximately four-fifths of these offenders had previously been on probation, and three-fifths had been committed to a correctional facility at least once in the past.

The average length of institutionalization for a juvenile who has committed a violent crime is only 353 days. When encounters with the juvenile justice system teach juvenile offenders that they are not accountable for their wrongdoing, the system is broken. And perhaps never before has there been a greater need for the juvenile justice system to be working effectively than now. Nationally, according to the FBI, if trends continue as they have over the past 10 years, juvenile arrests for violent crime will more than double by the year 2010. The FBI predicts that juveniles arrested for murder will increase 145 percent; forcible rape arrests will increase 66 percent; and aggravated assault arrests will increase 129 percent.

In America today no population poses a larger threat to public safety than juvenile criminals. Teenagers account for the largest portion of all violent crime in America. Older teenagers—ages 17–19—are the most violent of all age groups: more murder and robbery is committed by 18-year-old males than any other group, and more than one-third of all murders are committed by offenders under the age of 21. The number of juveniles arrested for weapons offenses has more than doubled in the last ten years. Almost one-fourth of all those arrested for weapons offenses in 1993 were

under the age of 18. Between 1965 and 1992, the number of 12-year-olds arrested for violent crime rose 211 percent; the number of 13- and 14-year-olds rose 301 percent; and the number of 15-year-olds rose 297 percent.

Importantly, this dramatic increase in youth crime has occurred in the midst of a declining youth population, a trend soon to change. In the final years of this decade and throughout the next, America will experience a population surge made up of the children of today's aging baby boomers. Today's enormous cohort of five-year-olds will be tomorrow's teenagers. This is ominous news, given that more violent crime is committed by older juveniles (those 15-19 years of age) than by any other age group. At the same time, youth drug use is rising rapidly. The confluence of these trends portends the possibility of an unprecedented period of violent youth crime.

During the Spring and Summer of 1996, The Subcommittee on Crime held six regional forums on juvenile crime around the country. More than 40 States were represented at these forums by State, city and county officials involved in the administration of juvenile justice. The participants included attorneys general, juvenile court judges, directors of public safety, sheriffs, and directors of probation. The Subcommittee received extensive testimony regarding the failure of the juvenile justice system to hold juvenile offenders accountable and the problems of increasing juvenile violence.

In response to the testimony presented at the Subcommittee's six violent youth crime meetings, on June 4, 1996, Chairman McCollum introduced H.R. 3565, the "Violent Youth Crime Act of 1996."

On July 16, 1996, H.R. 3565 was discharged from further consideration by the Subcommittee. On July 16 and 17, 1996, and on August 1 and 2, 1996, the full Committee held a mark-up of H.R. 3565. No further action was taken on H.R. 3565 or any juvenile justice reform bill in the 104th Congress.

On January 7, 1997, Chairman McCollum introduced H.R.3, the "Juvenile Crime Control Act of 1997."

HEARINGS

The Committee's Subcommittee on Crime held two days of hearings on H.R. 3 and related bills, H.R. 278 and H.R. 810. On February 25, 1997, the Subcommittee on Crime conducted a joint hearing with the Subcommittee on Early Childhood, Youth and Families of the Committee on Education and the Workplace to examine current juvenile crime proposals, primarily focusing on the Administration's proposal, H.R. 810, the "Anti-Gang and Youth Violence Act of 1997." Attorney General Janet Reno was the only witness.

On March 20, 1997, the Subcommittee on Crime held a hearing on reforming juvenile crime in America. The first panel of witnesses was composed of several juvenile justice system practitioners, including: Ms. Patricia West, Secretary of Public Safety, from the Commonwealth of Virginia; Judge David Grossman, Hamilton County Juvenile Court, in Cincinnati, Ohio, and past President of the National Council of Juvenile and Family Court Judges; Mr. Eric Joy, Director of the Allegheny County, Pennsylvania, Juvenile Court; Ms. Barbara O'Connor, a federal public defender from Los Angeles, California, and Special Counsel, U.S. Sentencing Commis-

sion; and Chief David Walchak, Chief of Police of the Concord, New Hampshire, Police Department, and past President of the International Association of Chiefs of Police. The second panel of witnesses was composed of community leaders who work with delinquent youth, including: Sergeant Roger Redd, Director of the Cumberland County Physical Training Program, and Bailiff of the Cumberland County Sheriff's Office in North Carolina; Mr. Richard Green, Director of the Crown Heights Youth Collective, Inc. in New York; and Mr. Peter Jackson, Director, Alliance of Concerned Men of Washington, D.C., and Deputy Warden of the Lorton Youth Center.

In addition to the hearings held in the 105th Congress, the Subcommittee on Crime held several meetings related to juvenile crime during the 104th Congress. Importantly, the Subcommittee held a series of regional forums across the country to examine the current and future magnitude of violent youth crime, and much needed juvenile justice reforms. In particular, the forums were designed to determine how Congress might help states and localities as they respond to the crisis of youth crime. Law enforcement leaders from all fifty states were invited to participate in the regional crime forum in their area. The forums were held in six cities: Philadelphia, Pennsylvania; Atlanta, Georgia; Chicago, Illinois; Boston, Massachusetts; Dallas, Texas; and San Francisco, California.

Participants in the Mid-Atlantic Regional Forum in Philadelphia, Pennsylvania, on March 26, 1996, included: Mr. Tom Corbett, Attorney General, Pennsylvania; Ms. Mary Woolley, Director, Criminal Justice Policy, Pennsylvania; Ms. Lynne Abraham, District Attorney, Philadelphia, Pennsylvania; Mr. Joseph Curran, Jr., Attorney General, Maryland; Mr. Stuart Simms, Secretary, Department of Juvenile Justice, Maryland; Mr. Terrence Farley, Director of the Division of Criminal Justice, New Jersey; Mr. Paul Donnelly, Executive Director of Juvenile Justice Commission, New Jersey; Ms. Jane Brady, Attorney General, Delaware; Mr. Paul Shechtman, Director of Criminal Justice, New York; Mr. Richard Costello, President, Philadelphia Fraternal Order of Police; Mr. Kenneth Rocks, Vice President, Philadelphia Fraternal Order of Police; Mr. John DiIulio, Professor, Princeton University; and Mr. Adam Walinsky, President, Center for Research on Institutions and Social Policy.

Participants in the Southern Regional Forum in Atlanta, Georgia, on April 10, 1996, included: The Honorable Michael Bowers, Attorney General, Georgia; the Honorable Jeff Sessions, Attorney General, Alabama; the Honorable Charles Condon, Attorney General, South Carolina; Ms. Flora Boyd, Director of Juvenile Justice, South Carolina; Mr. Jerry Kilgore, Secretary of Public Safety, Virginia; Ms. Patricia West, Director of Juvenile Justice, Virginia; Mr. Tim Moore, Commissioner, Department of Law Enforcement, Florida; Mr. Calvin Ross, Secretary, Department of Juvenile Justice, Florida; Mr. Bill Berger, Chief of Police, North Miami Beach, Florida, and Vice-President, International Association of Chiefs of Police; Mr. Albert Murray, Deputy Commissioner, Department of Youth Development, Tennessee; Mr. Pat Flynn, Assistant Attorney General, Mississippi.

Participants in the South Western Regional Forum in Dallas, Texas on May 28, 1996, included: The Honorable Dan Morales, At-

torney General, Texas; Mr. Drew Durham, Deputy Attorney General for Criminal Justice, Texas; Mr. Tony Fabelo, Executive Director, Criminal Justice Policy Council, Texas; Mr. Ben Click, Chief, Dallas Police Department, Texas; Judge Jim Farris, District Court Judge, and Former President, National Juvenile Judges Committee, Texas; Judge Eric Andell, First Court of Appeals Judge, and Commissioner, Texas Juvenile Probation Commission, Texas; Mr. Jimmy Dotson, Assistant Chief, Houston Police Department, Texas; Mr. Drew Edmondson, Attorney General, Oklahoma; Mr. Ken Lackey, Secretary, Department of Health and Human Services, and Executive Director, Office of Juvenile Affairs, Oklahoma; Mr. Carla Stoval, Attorney General, Kansas; Mr. Charles Simmons, Secretary, Department of Corrections, Kansas; Mr. Richard Stalder, Secretary, Department of Public Safety and Corrections, Louisiana; Mr. John Bailey, Director, Arkansas State Police, Arkansas; Mr. Darren White, Secretary, Department of Public Safety, New Mexico; Mr. Jerry Adamek, Director, Office of Youth Services, Colorado.

Participants in the New England Forum in Boston, Massachusetts on June 7, 1996, included: Ms. Norah Wylie, Deputy Chief Attorney General, Family and Community Crimes Bureau, Massachusetts; Mr. William O'Leary, Commissioner, Department of Youth Services, Massachusetts; Mr. Ralph Martin, District Attorney, Suffolk County, Massachusetts; Judge John Corbett, Judge, Plymouth Juvenile Court, former Assistant District Attorney, Norfolk County, Massachusetts; Judge Julian Houston, Judge, Superior Court, Massachusetts; Mr. Jonathan Petuchowski, Director, Committee on Criminal Justice, Department of Public Safety, Massachusetts; Mr. Jay Blitzman, Director, Roxbury Defenders Unit, Massachusetts; Mr. James Fox, Dean, Northeastern College of Criminal Justice, Massachusetts; Mr. Andrew Ketterer, Attorney General, Maine; Mr. William Young, Commissioner, Department of Social and Rehabilitative Services, Vermont; Ms. Angela Bucci, Assistant Attorney General, Juvenile Prosecution Unit Chief, Rhode Island; Mr. Joseph Mastrangelo, Assistant Director, Child Protective Services, Rhode Island; Mr. Richard Covello, Commander, State Bureau of Criminal Investigations, Connecticut; Ms. Linda D'Amario Rossi, Commissioner, Department Children and Families, Connecticut; Mr. John Kissinger, Assistant Attorney General, Criminal Justice Bureau, New Hampshire.

Participants in the Mid-Western Regional Forum in Chicago, Illinois, on June 24, 1996 included: Mr. Jim Ryan, Attorney General, Illinois; Ms. Andrea Zopp, First Assistant States Attorney, Illinois; Mr. Patrick Murphy, Cook County Public Guardian, Illinois; Mr. John Platt, Administrator, Juvenile Division, Department of Corrections, Illinois; Judge James Knecht, Judge, Illinois Appellate Court, Illinois; Judges William Hibbler, Presiding Judge, Juvenile Justice Division, Illinois; Ms. Heidi Heitkamp, Attorney General, North Dakota; Ms. Traci Sanders, Assistant Attorney General, Missouri; Ms. Lisa Smith, Director, Office of Juvenile Justice, Department of Public Safety, Missouri; Mr. Don Davis, Commissioner, Department of Public Safety, Minnesota; Mr. Mike Sullivan, Secretary, Department of Corrections, Wisconsin; Ms. Catherine O'Connor, Executive Director, Criminal Justice Institute, Indiana; Mr. Richard Moore, Director, Criminal & Juvenile Justice Planning

Agency, Iowa; Ms. Carol Rapp Zimmermann, Assistant Director, Department of Youth Services, Ohio; Mr. Tom Ginster, Family Independence Agency, Michigan; Mr. Jon Hill, Director, Office of Juvenile Services, Nebraska.

Participants in the Western Regional Forum in San Francisco, California, on July 1, 1996, included: The Honorable Daniel Lungren, Attorney General, California; the Honorable Frankie Sue Del Papa, Attorney General, Nevada; Mr. Joe Albo, Director of Public Safety, Arizona; Mr. Joe Sandoval, Secretary of the California Youth and Adult Corrections Agency; Mr. Frank Alarcon, Director, California Youth Authority; Mr. Greg Peden, Director, Criminal Justice Services, Oregon Department of Law Enforcement; Mr. Rick Hill, Director, Oregon Youth Authority; Mr. Gerard Sidorowicz, Assistant Secretary, Juvenile Rehabilitation Administration, Department of Social and Health Services, Washington; Mr. John MacDonald, Office of Attorney General Grant Woods, Arizona; and Mr. Steve Shaw, Department of Human Resources, Office of Governor Miller, Nevada.

In addition to the Regional Crime Forums the Subcommittee on Crime held a hearing on juvenile crime proposals introduced in the 104th Congress. On June 27, 1996, the Subcommittee on Crime held a hearing on H.R. 3565, the "Violent Youth Predator Act," introduced by Mr. McCollum, and H.R. 3445, the "Balanced Juvenile Justice and Crime Prevention Act of 1996," which was introduced by Mr. Schumer. The Subcommittee heard testimony from four witnesses, all of whom were victimized by repeat, violent juvenile offenders. They included: Ms. Patricia Thomas, Fairfax, Virginia; Ms. Kathy Trammel, Manassas, Virginia; Mr. Thomas Wallace, Hampton, Virginia; and Ms. Linda Clark from Flint, Michigan. Other witnesses for the hearing included: Ms. Karen Schrier, U.S. Attorney, District of South Dakota, and Chair of the Juvenile Justice Subcommittee of the Attorney General's Advisory Committee; Mr. Charles Wilson, U.S. Attorney with the Middle District of Florida; The Honorable Jeff Sessions, Attorney General for the State of Alabama; Justice Elizabeth Weaver, Michigan Supreme Court, Mr. Richard Cullen, former U.S. Attorney, Eastern District of Virginia; Mr. Kevin Beary, Sheriff, Orange County, Florida; Mr. Jim Wootton, President, Safe Streets Alliance; Mr. Scott Newman, Prosecuting Attorney, Marion County, Indiana; Judge Sandra Strom, Family Court, Birmingham, Alabama; Mr. Peter Greenwood, Director, Criminal Justice Analysis, RAND Corporation, Mr. Santa Monica, California; Ms. Jo Ann Wallace, Director, Public Defender Service, District of Columbia, and Ms. Ellen Halbert, Vice Chair, Texas Board of Criminal Justice, Austin, Texas.

COMMITTEE CONSIDERATION

On April 24, 1997, and April 29, 1997, the Committee met in open session and ordered reported favorably the bill H.R. 3, as amended, by a recorded vote of 15 to 9, a quorum being present.

VOTE OF THE COMMITTEE

The Committee considered the following amendments with recorded votes:

Mr. Conyers and Mr. Schumer offered an amendment in the nature of a substitute containing selected provisions from the Administration's juvenile crime bill, H.R. 810. The amendment was defeated 7 to 17.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff			
Mr. Gallegly		X	
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer			
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon		X	
Mr. Conyers	X		
Mr. Frank			
Mr. Schumer	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt			Present
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Meehan			
Mr. Delahunt	X		
Mr. Wexler			
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	7	17	

Ms. Jackson Lee offered an amendment to eliminate a presumption for prosecuting certain juveniles as adults. The amendment was defeated 11 to 17.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff			
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	

ROLLCALL NO. 2—Continued

	Ayes	Nays	Present
Mr. Bono		X	
Mr. Bryant (TN)			
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank			
Mr. Schumer	X		
Mr. Berman	X		
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan	X		
Mr. Delahunt	X		
Mr. Wexler		X	
Mr. Rothman		X	
Mr. Hyde, Chairman		X	
Total	11	17	

Ms. Waters offered two amendments en bloc to Title I which sought to strike the word “unreasonable” in the provision of the bill requiring that certain juveniles be “taken before a judicial officer without unreasonable delay” and to strike the word “reasonable” in the provision requiring that the arresting officer “promptly take reasonable steps to notify” the parents of juveniles taken into custody. The amendment was defeated 7 to 17.

ROLLCALL NO. 3

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff			
Mr. Gallegly		X	
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)			
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease			
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank			
Mr. Schumer			
Mr. Berman	X		

ROLLCALL NO. 3—Continued

	Ayes	Nays	Present
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren		X	
Ms. Jackson Lee			
Ms. Waters	X		
Mr. Meehan		X	
Mr. Delahunt	X		
Mr. Wexler		X	
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	7	17	

Mr. McCollum moved to lay on the table the appeal of the ruling of the chair regarding the germaness of an amendment by Mr. Schumer regarding locking devices for firearms. The motion was carried 10 to 9.

ROLLCALL NO. 4

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum	X		
Mr. Gekas			
Mr. Coble	X		
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly			
Mr. Canady	X		
Mr. Inglis			
Mr. Goodlatte	X		
Mr. Buyer			
Mr. Bono	X		
Mr. Bryant (TN)	X		
Mr. Chabot	X		
Mr. Barr	X		
Mr. Jenkins			
Mr. Hutchinson	X		
Mr. Pease			
Mr. Cannon			
Mr. Conyers			
Mr. Frank		X	
Mr. Schumer		X	
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Ms. Waters			
Mr. Meehan		X	
Mr. Delahunt		X	
Mr. Wexler			
Mr. Rothman		X	
Mr. Hyde, Chairman	X		
Total	10	9	

Mr. Schumer offered three amendments en bloc which sought to: (1) strike Title III concerning Juvenile Accountability Incentive Grants and replace it with a block grant program which required units of local government to spend not less than 50 percent of their funding on prevention programs; (2) amend the 1994 Crime Bill regarding Truth-In-Sentencing Grants to alter the percentage of available prison funds for jail construction; and (3) add a new title establishing after-school prevention programs. The en bloc amendment was defeated 10 to 11.

ROLLCALL NO. 5

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly		X	
Mr. Canady		X	
Mr. Inglis			
Mr. Goodlatte		X	
Mr. Buyer			
Mr. Bono			
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease			
Mr. Cannon			
Mr. Conyers			
Mr. Frank	X		
Mr. Schumer	X		
Mr. Berman	X		
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Meehan	X		
Mr. Delahunt	X		
Mr. Wexler			
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	10	11	

Mr. Schumer offered an amendment to create a grant program for prosecutors to target gangs and violent juveniles. The amendment was defeated 6 to 20.

ROLLCALL NO. 6

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)		X	

ROLLCALL NO. 6—Continued

	Ayes	Nays	Present
Mr. Schiff			
Mr. Gallegly		X	
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon		X	
Mr. Conyers		X	
Mr. Frank			
Mr. Schumer	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters			
Mr. Meehan	X		
Mr. Delahunt	X		
Mr. Wexler	X		
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	6	20	

Mr. Delahunt offered an amendment to Title III which would strike provisions which require States and local governments to provide assurances that they are able to prosecute certain violent juvenile offenders as adults in order to receive block grants. The amendment was defeated 8 to 16.

ROLLCALL NO. 7

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff			
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon		X	
Mr. Conyers	X		

ROLLCALL NO. 7—Continued

	Ayes	Nays	Present
Mr. Frank			
Mr. Schumer			
Mr. Berman			
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters			
Mr. Meehan	X		
Mr. Delahunt	X		
Mr. Wexler			
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	8	16	

Mr. Hutchinson offered an amendment to Title III which would amend the requirement that States and units of local government provide assurances regarding record-keeping of certain juvenile offenders. The amendment was adopted by voice vote.

Mr. Meehan introduced an amendment to Title III which would require States and units of local government to provide assurances that they are reporting to the Secretary of the Treasury information on guns seized from juveniles by law enforcement in order to receive grant funds. The amendment was defeated 6 to 17.

ROLLCALL NO. 8

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas		X	
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff			
Mr. Gallegly		X	
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer			
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon		X	
Mr. Conyers	X		
Mr. Frank			
Mr. Schumer			
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters			

ROLLCALL NO. 8—Continued

	Ayes	Nays	Present
Mr. Meehan	X	.....	.....
Mr. Delahunt .....	.....	.....	.....
Mr. Wexler .....	.....	.....	.....
Mr. Rothman	X	.....	.....
Mr. Hyde, Chairman .....	.....	X	.....
Total	6	17	.....

Mr. Watt offered two amendments en bloc which sought to: (1) amend Title I to specify that prior to disposition or sentencing that certain juveniles be detained in a “juvenile detention facility” rather than detaining such juveniles in “such place as the Attorney General may designate”; (2) amend Title III to require States and units of local government to provide assurances that certain juveniles prosecuted as adults are being housed separately from the adult inmate population in order to receive grant funds. The en bloc amendment was defeated 12 to 13.

ROLLCALL NO. 9

	Ayes	Nays	Present
Mr. Sensenbrenner .....	.....	.....	.....
Mr. McCollum .....	.....	X	.....
Mr. Gekas .....	.....	.....	.....
Mr. Coble .....	.....	X	.....
Mr. Smith (TX) .....	.....	X	.....
Mr. Schiff .....	.....	.....	.....
Mr. Gallegly .....	.....	.....	.....
Mr. Canady .....	.....	X	.....
Mr. Inglis .....	.....	X	.....
Mr. Goodlatte .....	.....	X	.....
Mr. Buyer .....	.....	X	.....
Mr. Bono .....	.....	X	.....
Mr. Bryant (TN)	X	.....	.....
Mr. Chabot .....	.....	X	.....
Mr. Barr .....	.....	.....	.....
Mr. Jenkins .....	.....	X	.....
Mr. Hutchinson .....	.....	X	.....
Mr. Pease .....	.....	X	.....
Mr. Cannon .....	.....	.....	.....
Mr. Conyers	X	.....	.....
Mr. Frank	X	.....	.....
Mr. Schumer .....	.....	.....	.....
Mr. Berman .....	.....	.....	.....
Mr. Boucher .....	.....	.....	.....
Mr. Nadler .....	.....	.....	.....
Mr. Scott	X	.....	.....
Mr. Watt	X	.....	.....
Ms. Lofgren	X	.....	.....
Ms. Jackson Lee	X	.....	.....
Ms. Waters	X	.....	.....
Mr. Meehan	X	.....	.....
Mr. Delahunt	X	.....	.....
Mr. Wexler	X	.....	.....
Mr. Rothman	X	.....	.....
Mr. Hyde, Chairman .....	.....	X	.....
Total	12	13	.....

Mr. Watt offered an amendment to Title I which sought to strike the provision prohibiting judicial review of certain cases involving violent juvenile offenders and replace it with provisions which specify procedures and standards by which the court may decide to try certain juveniles as adults. The amendment was defeated 9 to 16.

ROLLCALL NO. 10

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)		X	
Mr. Schiff			
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank			
Mr. Schumer			
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan	X		
Mr. Delahunt	X		
Mr. Wexler		X	
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	9	16	

Mr. Watt offered an amendment to Title I which sought to strike provisions allowing for the prosecution of 13-year-old juvenile offenders as either adults or juveniles. The amendment was defeated 7 to 16.

ROLLCALL NO. 11

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly			

ROLLCALL NO. 11—Continued

	Ayes	Nays	Present
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank			
Mr. Schumer			
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt	X		
Mr. Wexler		X	
Mr. Rothman		X	
Mr. Hyde, Chairman		X	
Total	9	16	

Ms. Waters offered an amendment to Title I which would strike “conspiracy” or “attempt” to commit drug felonies from the list of offenses which, when committed by certain juveniles, could allow such juveniles to be prosecuted as an adult. The amendment was defeated 11 to 14.

ROLLCALL NO. 12

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank	X		
Mr. Schumer			

ROLLCALL NO. 12—Continued

	Ayes	Nays	Present
Mr. Berman			
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt	X		
Mr. Wexler	X		
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	11	14	

Mr. Scott offered an amendment to Title I which provides that no juvenile prosecuted as an adult or adjudicated as a delinquent may be detained prior to disposition in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. The amendment was adopted by voice vote.

Mr. Scott offered an amendment to Title III which provides that in addition to providing funding to enable juvenile courts and juvenile probation offices to be more effective and efficient in holding juvenile offenders accountable, block grant funds may also be used by such offices for such purposes that reduce recidivism. The amendment was agreed to by voice vote.

Ms. Lofgren offered an amendment to Title I to establish an initial “at-risk” screening process and referral system to youth development specialists for juveniles arrested by federal law enforcement. The amendment was defeated 8 to 13.

ROLLCALL NO. 13

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease			
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank	X		
Mr. Schumer			
Mr. Berman			

ROLLCALL NO. 13—Continued

	Ayes	Nays	Present
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt	X		
Mr. Wexler			
Mr. Rothman	X		
Mr. Hyde, Chairman		X	
Total	8	13	

Ms. Lofgren offered an amendment to Title III which provided that, among the stated uses, block grant funds may also be used for the purposes of hiring additional juvenile judges, probation officers and court-appointed defenders, and funding pre-trial services for juveniles, to ensure the smooth and expeditious administration of the juvenile justice system. The amendment was adopted by voice vote.

Ms. Lofgren offered an amendment to Title III which sought to change the percentage of block grant funds which States are required to pass through to units of local government from 75 percent to 95 percent. The amendment was defeated 6 to 16.

ROLLCALL NO. 14

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum		X	
Mr. Gekas			
Mr. Coble		X	
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly			
Mr. Canady		X	
Mr. Inglis		X	
Mr. Goodlatte		X	
Mr. Buyer		X	
Mr. Bono		X	
Mr. Bryant (TN)		X	
Mr. Chabot		X	
Mr. Barr		X	
Mr. Jenkins		X	
Mr. Hutchinson		X	
Mr. Pease		X	
Mr. Cannon			
Mr. Conyers	X		
Mr. Frank		X	
Mr. Schumer			
Mr. Berman			
Mr. Boucher			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			

ROLLCALL NO. 14—Continued

	Ayes	Nays	Present
Mr. Mefhan			
Mr. Delahunt	X		
Mr. Wexler			
Mr. Rothman		X	
Mr. Hyde, Chairman		X	
Total	6	16	

Final Passage. Motion to report H.R. 3 favorably, as amended.
The motion passed 15 to 9.

ROLLCALL NO. 15

	Ayes	Nays	Present
Mr. Sensenbrenner			
Mr. McCollum	X		
Mr. Gekas			
Mr. Coble	X		
Mr. Smith (TX)			
Mr. Schiff			
Mr. Gallegly			
Mr. Canady	X		
Mr. Inglis	X		
Mr. Goodlatte	X		
Mr. Buyer	X		
Mr. Bono	X		
Mr. Bryant (TN)	X		
Mr. Chabot	X		
Mr. Barr	X		
Mr. Jenkins	X		
Mr. Hutchinson	X		
Mr. Pease	X		
Mr. Cannon			
Mr. Conyers		X	
Mr. Frank		X	
Mr. Schumer	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Ms. Waters			
Mr. Meehan			
Mr. Delahunt		X	
Mr. Wexler			
Mr. Rothman		X	
Mr. Hyde, Chairman	X		
Total	15	9	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 1, 1997.

Hon HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3, the Juvenile Crime Control Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for federal costs), Leo Lex (for the state and local impact), and Matt Eyles (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3—Juvenile Crime Control Act of 1997

Summary: H.R. 3 would make several changes and additions to current law to encourage and strengthen the federal prosecution of juvenile offenders. The bill also would authorize appropriations of \$500 million for each of fiscal years 1998 through 2000 for juvenile accountability block grants, which would replace an existing grant program for which funding has been authorized but not yet appropriated.

Assuming appropriation of the authorized amounts, CBO estimates that enacting H.R. 3 would result in additional discretionary spending of about \$1.4 billion over the 1998-2002 period. This legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 3 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments. The bill contains new private-sector mandates as defined in UMRA, but CBO estimates that the direct costs of the

new mandates would be negligible (and far below the \$100 million established by UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3 is shown in the table on the following page. For the purposes of this estimate, CBO assumes that all amounts authorized in H.R. 3 will be appropriated by the start of each fiscal year and that outlays will follow the historical spending patterns of similar grant programs administered by the Department of Justice. CBO estimates that other provisions in the legislation would have no significant budgetary impact.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Spending under current law:						
Authorization level ¹	0	30	35	40	0	0
Estimated outlays	0	4	13	22	30	22
Proposed changes:						
Authorization level	0	470	465	460	0	0
Estimated outlays	0	103	281	442	361	184
Spending under H.R. 3:						
Authorization level	0	500	500	500	0	0
Estimated outlays	0	107	294	464	391	206

¹Public Law 103-322 authorize \$150 million for a juvenile crime control grant similar to the one that H.R. 3 would authorize. That existing program has not received any funding thus far. Of the \$150 million total, \$105 million is authorized for fiscal years 1998 through 2000.

The costs of this legislation fall within budget function 750 (administration of justice).

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: H.R. 3 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would establish a number of conditions that state and local governments would have to meet in order to receive funds under the Accountability for Juvenile Offenders and Public Protection Incentive Grants program. However, these grant conditions would not be considered mandates as defined in UMRA.

Estimated impact on the private sector: H.R. 3 would impose new private-sector mandates on the parent, guardian, or custodian of juvenile offenders who face proceedings in a court of the United States. If enacted, the bill would authorize U.S. district courts to order the adult responsible for a juvenile offender to attend the disposition hearing and to be present when the court imposes sanctions against the juvenile. In addition, this legislation would authorize the court to issue orders to the parent or responsible adult regarding the conduct of the offending juvenile. Because few juvenile-offender proceedings occur in U.S. district courts each year, CBO estimates that the direct costs of new private-sector mandates in the bill would be negligible and far below the \$100 million threshold in UMRA.

Estimate prepared by: Federal costs; Mark Grabowicz; Impact on State, local, and tribal governments; Leo Lex; Impact on the private sector; Matt Eyles.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title.—Section 1 provides that this Act may be cited as “the Juvenile Crime Control Act of 1997.”

TITLE I—REFORMING THE FEDERAL JUVENILE JUSTICE SYSTEM

Section 1 establishes Title I of this Act and provides its title: “Reforming the Federal Juvenile Justice System.” The amendments made in this title exclusively address the already existing federal juvenile justice system, and are designed to strengthen the federal system by providing increased protection for the community and holding juveniles accountable for their actions. These amendments will help to ensure that prosecution of serious juvenile offenders who are subject to federal jurisdiction is more swift and certain, and that punishment of juvenile offenders will be commensurate with the seriousness of the crimes committed.

Sec. 101. Delinquency proceedings or criminal prosecutions in district courts.—This legislation amends Section 5032 of title 18 of the United States Code which addresses whether a juvenile should be proceeded against in the federal system or a state system, and whether a juvenile should be proceeded against as a juvenile or an adult.

Current law provides that federal delinquency proceedings (rather than state delinquency proceedings) may only be conducted if the Attorney General certifies one of three things: (1) No state is able or willing to exercise jurisdiction; (2) The appropriate state does not have adequate juvenile programs or services; or (3) There is a substantial federal interest in proceeding in a case involving either a violent felony, a drug trafficking offense, a drug smuggling offense, or a firearms offense.

This legislation provides in section 5032(a)(2) that federal delinquency proceedings may only be conducted if the Attorney General certifies two things: (1) No state is able or willing to exercise jurisdiction; and (2) There is a substantial federal interest in the case that warrants the exercise of federal jurisdiction.

It is important to note that this legislation does not create a presumption in favor of federal delinquency proceedings rather than state delinquency proceedings; the presumption of current law is unchanged. This section merely removes the necessity of the Attorney General certifying that there are inadequate juvenile programs or services before federal delinquency proceedings may be initiated.

This legislation also changes current law regarding adult prosecution of juveniles. Under current law, the decision to charge a juvenile as an adult for specified crimes is made by the United States district court as a result of a motion by the federal prosecutor to transfer the juvenile for criminal prosecution. The offenses subject to this transfer authority are limited. Even more restrictive are the list of violent offenses for which a juvenile under 15 years of age can be transferred.

Current law requires a transfer hearing before juvenile court jurisdiction can be waived. The hearing is made upon motion by the Attorney General. Waiver of juvenile court jurisdiction is to occur only when it is in "the interest of justice," and by the court after it has reviewed numerous factors, including the nature of past treatment efforts and the juveniles intellectual and psychological maturity.

There is virtually universal agreement among federal prosecutors that the present system is cumbersome and has frequently inhibited them from seeking adult prosecution. Prosecutors who have sought the transfer of juveniles to adult status have experienced many difficulties in the application of an outmoded statute or have encountered judges personally opposed to the transfer of juveniles, even in cases involving very serious crimes. Moreover, there is a presumption under present law in favor of a juvenile adjudication, and a district court's decision to decline transfer to adult status may be reversed only upon a finding of abuse of discretion. *United States v. Juvenile Male #1*, 47 F.3d 68 (2d Cir. 1995). The result is a juvenile justice system which fails to provide an effective deterrent to juvenile crime and fails adequately to protect the public.

Section 101 of this legislation would amend section 5032 to greatly strengthen and simplify the process for prosecuting the most dangerous juveniles as adults in federal court. The legislation would bring federal law into conformity with that of many states by giving prosecutors, rather than the courts, the discretion to charge a juvenile alleged to have committed certain serious felonies as an adult or as a juvenile.

Current law requires an adult criminal trial where the Attorney General has certified that the exercise of federal jurisdiction is appropriate and the case involves a juvenile who: (1) is 16 years of age or older; (2) is alleged to have committed a violent felony or one of the specified serious offenses (including destruction of aircraft or aircraft facilities; arson or illegal use of explosives; drug trafficking; drug smuggling); and (3) was previously found to have committed one of the above offenses (or the state equivalent).

Current law permits an adult criminal trial upon motion of the Attorney General with respect to a juvenile who: (1) is 13 years of age or older; and (2) is alleged to have committed: either an assault with intent to commit murder, an assault with intent to commit a felony, or an assault with a dangerous weapon; or, while in possession of a firearm is alleged to have committed a robbery, bank robbery, or aggravated sexual abuse. An adult criminal trial is also permitted under current law upon motion of the Attorney General with respect to a juvenile who: (1) is 15 years of age or older; and (2) is alleged to have committed: a felony that involves the use, attempted use, or threatened use of physical violence against the person or property of another; or one of the identified serious felonies in Section 5032 (including drug trafficking, drug smuggling, gun running, or serious firearms offenses).

Section 101 of this legislation provides for adult criminal trial of a juvenile if: the juvenile has requested in writing upon advice of counsel to be prosecuted as an adult; or the juvenile is 14 years of age or older and is alleged to have committed a crime which if committed by an adult would be a "serious violent felony," as defined

in Section 3559(c) of title 18, or a “serious drug offense,” as defined in Sections 846 and 963 of title 21. The offense “serious violent felony” includes: murder, manslaughter, assault with intent to commit murder or rape, aggravated sexual abuse, kidnaping, air piracy, robbery, car jacking, extortion, arson, misuse of firearms, and any crime punishable by imprisonment for a maximum of 10 years or more that involves the use or threatened use of physical force against another. A “serious drug offense” includes the drug kingpin offense and the most serious drug trafficking and drug smuggling offenses.

It is important to note that such a juvenile may still be proceeded against as a juvenile under Section 5032(b)(2) if the Attorney General certifies that the interests of public safety are best served by proceeding against the juvenile as a juvenile. As such, Section 101 creates a presumption in favor of prosecuting as an adult a juvenile who has committed one of the identified serious crimes, but still leaves the prosecutor with the discretion not to prosecute the juvenile as an adult, and to proceed against the juvenile in a delinquency proceeding. Importantly, this legislation provides that the prosecutor’s determination to institute adult proceedings against a juvenile is not reviewable in any court.

This legislation also provides in 5032(c)(1) that a juvenile 13 years of age or older may be prosecuted as an adult, at the discretion of the prosecutor, if the juvenile is alleged to have committed a serious violent felony or a serious drug offense. Prosecution of juveniles 13 years of age at the time of the offense would require approval of the Attorney General or his or her designee at a level not lower than Deputy Assistant Attorney General. This internal Justice Department approval requirement (which would not be litigable) has been used in other types of particularly sensitive cases and would ensure that careful scrutiny and uniform standards are used in determining whether to bring criminal charges against very young juveniles.

This legislation further provides in 5032(c)(4) that a juvenile 14 years of age or older may be prosecuted as an adult, at the discretion of the prosecutor, if the juvenile is alleged to have committed one of the following serious felonies:

(A) a crime of violence (as defined in section 3156(a)(4)) that is a felony;

(B) an offense described in section 844(d), (k), or (l), or paragraph (a)(6) or subsection (b), (g), (h), (j), (k), or (l), of section 924;

(C) a violation of section 922(o) that is an offense under section 924(a)(2);

(D) a violation of section 5861 of the Internal Revenue Code of 1986 that is an offense under section 5871 of such Code (26 U.S.C. 5871);

(E) a conspiracy to violate an offense described in any of subparagraphs (A) through (D); or

(F) an offense described in section 401 or 408 of the Controlled Substances Act (21 U.S.C. 841, 848) or a conspiracy or attempt to commit that offense which is punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846), or an offense punishable under section 409 or 419 of the Con-

trolled Substances Act (21 U.S.C. 849, 860), or an offense described in section 1002, 1003, 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 955 or 959), or a conspiracy or attempt to commit that offense which is punishable under section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963).

These serious felonies include explosives offenses, drug kingpin offenses, drug trafficking near schools, and drug smuggling.

To ensure the prosecution in one trial of all offenses charged, a juvenile tried as an adult for one of the designated offenses could also be prosecuted as an adult for any other offenses properly joined under the Federal Rules of Criminal Procedure, as provided in section 5032(e). With these amendments, juveniles convicted as adults could receive substantially higher sentences than under current law, commensurate with their crimes and criminal histories.

The existing statute excludes younger juveniles in Indian country charged with certain crimes from prosecution unless the tribal government determines to have the provision apply. This legislation would continue this provision.

Section 5032(a)(4) amends current law to make clear that federal juvenile proceedings are normally open to the public but may be closed in the interests of justice or for good cause shown. It also includes a provision allowing victims to be included when the public is otherwise excluded, unless the victim is a witness in the determination of guilt or innocence in a trial or delinquency adjudication.

Under 5032(f), the Attorney General is required to report annually to Congress regarding: the number of juveniles adjudicated delinquent or tried as adults in Federal court; the race, ethnicity, and gender of those juveniles; the number of those juveniles who were abused or neglected by their families, to the extent such information is available; and the number and types of assault crimes committed against juveniles while incarcerated in connection with the adjudication or conviction.

Sec. 102. Custody prior to appearance before judicial officer.—Section 102 contains minor changes to current law so as to clarify that the procedures applicable to the arrest of a juvenile prior to the formal filing of charges apply whether or not it is anticipated that the juvenile will be charged as a juvenile or as an adult.

Sec. 103. Technical and conforming amendments to section 5034.—This section is amended to clarify that it applies to juvenile proceedings only.

Sec. 104. Detention prior to disposition or sentencing.—This section relates to the detention of juvenile offenders prior to disposition or sentencing. Specifically, this provision would amend section 5035, to provide that juvenile offenders less than 16 years of age being prosecuted as adults but not yet convicted must be placed in an available, suitable juvenile facility located within, or a reasonable distance from, the district in which the juvenile is being prosecuted. If such a suitable juvenile facility is not available, the juvenile could be placed in any other suitable facility located within, or a reasonable distance from, the district in which the juvenile is being prosecuted. Only if neither of these types of facilities is available could a juvenile less than 16 years old be placed in some other

suitable facility. In order to protect the safety of these younger offenders, the bill would require that such juveniles not be detained prior to sentencing in any institution in which they have regular contact with adult prisoners.

This provision would further amend section 5035, to provide that juvenile offenders who are 16 years of age or older and who are being prosecuted as adults but who are not yet convicted are to be detained in such suitable place as the Attorney General may designate. Preference is to be given to a place located within a reasonable distance of the district in which the juvenile is being prosecuted.

The current requirement of section 5035 that a juvenile charged with juvenile delinquency may not be detained prior to disposition in any institution in which the juvenile has regular contact with adult prisoners would be retained in the proposed legislation. Furthermore, this legislation provides that a juvenile prosecuted as an adult may not be detained prior to disposition in any institution in which the juvenile has regular contact with adult prisoners.

Under section 5039 of current law, no juvenile committed, whether pursuant to a delinquency adjudication or an adult conviction, may be retained in an institution in which he has regular contact with adult offenders. This provision is unchanged by H.R. 3.

The current requirement in Section 5039 that every juvenile under 18 years of age who is in custody be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment would continue to apply to every juvenile charged as an adult who is detained prior to trial and sentencing and would be expanded to provide for reasonable safety and security as well.

Sec. 105. Speedy trial.—This section would require that for a juvenile in custody juvenile delinquency proceedings begin within 45 days, rather than the current 30 days. Exclusions in the Speedy Trial Act (18 U.S.C. §3161(h)) would also be made applicable for the first time in juvenile delinquency proceedings. This additional time is necessary, particularly in cases involving both adult and juvenile defendants such as in the prosecution of gangs, to protect witnesses and critical evidence by ensuring that the trial of a juvenile does not proceed before the case against the adults. The time within which a disposition hearing must be held after an adjudication of delinquency would also be increased from 20 to 40 days. Within the 40 days, the probation office would prepare a pre-disposition report which would include victim impact information. Forty days is consistent with federal court practice generally and will provide the time necessary to prepare a comprehensive report.

Sec. 106. Disposition; availability of increased detention, fines and supervised release for juvenile offenders.—The legislation would amend section 5037 to make fines and supervised release, which are not presently sentencing options, available for adjudicated delinquents in addition to probation and detention. This legislation also requires the court, after the disposition hearing, to impose an appropriate sanction. The court may also issue orders to the juvenile's parent, guardian or custodian regarding their conduct with respect to the juvenile.

Under this legislation, the maximum period of official confinement for an adjudicated delinquent would be increased to ten years or through age 25 to give judges increased sentencing flexibility for juveniles who are adjudicated delinquent. The maximum period for probation would be increased to the same period applicable to an adult. To strengthen the accountability of juveniles to victims, mandatory restitution would also apply to adjudicated delinquents.

Under section 5037(g) of this legislation, juveniles under the age of 16 charged as adults, but who have not previously been adjudicated delinquent of a serious violent felony, and who are charged with certain limited offenses would be sentenced under the sentencing guidelines but would not be subject to mandatory minimum sentences.

Sec. 107. Juvenile records and fingerprinting.—Current law provides that the records of juvenile proceedings must be safeguarded from unauthorized disclosure. As such, records are subject to limited release and for limited purposes, including to other courts, an agency preparing a report for another court, and law enforcement agencies for use in an investigation or law enforcement employment check. Current law also provides that the fingerprints and photographs of juveniles tried as adults are to be made available to the same extent as would the fingerprints and photographs of an adult.

This legislation changes section 5038 by providing that the records of juvenile proceedings are public records to the same extent that the record of adult criminal proceedings would be public. This legislation further provides that such records are to be made available for official purposes, including disclosure to victims and school officials.

Section 107 further provides that the fingerprints and photographs of juveniles tried as adults are to be made available to the same extent as those of adults, and that the Attorney General is to establish guidelines on the availability of fingerprints and photographs of juveniles adjudicated delinquent.

Sec. 108. Technical amendment of sections 5031 and 5034.—This section makes technical and conforming amendments to Sections 5031 and 5034.

Sec. 109. Clerical amendments to table of sections for chapter.—This section amends the table of sections at the beginning of chapter 403 of title 18, United States Code, so as to reflect this legislation's provisions.

TITLE II—APPREHENDING ARMED VIOLENT YOUTH

Sec. 201. Armed violent youth apprehension directive.—Section 201 establishes the Armed Violent Youth Apprehension Directive. Pursuant to this section, the Attorney General is required to establish an armed violent youth apprehension program. Elements of the program include: (1) the designation of at least one federal prosecutor in every U.S. attorney's office to prosecute, on either a full- or part-time basis, federal laws pertaining to armed violent youth; (2) a requirement that every U.S. attorney establish a task force within his or her federal district to coordinate with State and local law enforcement the apprehension of armed violent youth; (3) bimonthly reports from U.S. attorneys to the Attorney General con-

cerning the number of armed violent youth arrested and prosecuted; and (4) semiannual reports from the Attorney General to the Congress summarizing the information received from the U.S. attorneys.

Under section 201(b), a waiver from the requirements of section 201 may be granted to a district by the Attorney General on the basis of the number of assistant U.S. attorneys and the amount of violent youth crime in a district.

Sec. 301. Short title.—Section 301 provides that this title may be cited as the “Juvenile Accountability Block Grants Act of 1997.”

TITLE III—ACCOUNTABILITY FOR JUVENILE OFFENDERS AND PUBLIC PROTECTION INCENTIVE GRANTS

Sec. 302. Block grant program.—Section 302 provides that Part R of title I of the Omnibus and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by substituting in its place “Part R—Juvenile Accountability Block Grants.”

Sec. 1801. Program authorized.—This section authorizes the Director of the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice to provide grants to States, and in certain cases directly to eligible units of local government, for use by States and localities for the purpose of promoting greater accountability in the juvenile justice system. Under section 1801(b), grants are to be provided to support the following activities of a state or locality:

- (1) building, expanding or operating juvenile detention and corrections facilities (It is the view of the Committee that this includes the renovation of facilities and the training of corrections officers);
- (2) developing and administering accountability-based sanctions for juvenile offenders;
- (3) hiring additional juvenile judges, probation officers, and court-appointed defenders to promote the efficient and expeditious administration of juvenile justice;
- (4) hiring additional prosecutors to target violent juvenile offenders;
- (5) providing funding to enable prosecutors to address drug, gang, and youth violence more effectively;
- (6) providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;
- (7) providing funding to enable juvenile courts and probation offices to be more effective and efficient in holding juvenile offenders accountable;
- (8) establishing court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders;
- (9) establishing drug court programs for juvenile offenders;
- (10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to identify, control, supervise and treat serious juvenile offenders; and
- (11) establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by

law enforcement agencies, or which are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence. It is the Committee's view that such programs generally focus on juveniles who have had contact with law enforcement because of the conduct of the juveniles, where such programs ensure that there are appropriate sanctions and consequences associated with the juveniles' conduct. Such programs also involve activities that are designed or operated in conjunction with law enforcement that seek to address crime and violence in school environments.

It is left to states and localities to determine what, among these identified accountability-oriented activities, they will support with their grant funds.

Sec. 1802. Grant eligibility.—This section establishes the eligibility criteria for States and localities to receive funding. The section requires any State applying for grant funds to provide assurances to the Director of the BJA that the State, and those localities within that State that qualify for funding, has in effect (or will have in effect within one year of the date of the State's application) laws, or policies and programs that meet the four requirements.

The first is to ensure that juveniles who commit an act after attaining 15 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution as a matter of law, or that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults. A state which provides for mandatory prosecution of such juveniles would meet this criterion; however, this criterion does not require mandatory prosecution of such juveniles. It merely requires that the discretion to prosecute such juveniles be vested with the prosecutor.

The second requirement is providing a system of graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, and escalating the sanction with each subsequent, more serious delinquent or criminal act. The Committee realizes that such a system is less likely to exist as a matter of law than as a matter of policy and practice. The Committee further realizes that measuring with precision the extent to which a state or locality ensures a sanction for every delinquent or criminal act will be difficult. It is the Committee's view that a general assessment of the degree to which such policies and practices are being carried out is a sufficient basis for a State or locality's determination.

The third requirement is establishing at a minimum a system of records relating to any adjudication of a juvenile who has a prior delinquency adjudication and who is adjudicated delinquent for conduct that would be felony if committed by adults which is equivalent to that maintained for adults who commit felonies. This provision has the effect of allowing States to exempt from such a records provision a first-time delinquent. A State would still meet this requirement if it has a system of juvenile records relating to any adjudication of a juvenile who is adjudicated for conduct that would be a felony if committed by adults which is equivalent to that maintained for adults who commit felons, and does not exempt the first-time delinquent from its provisions.

The fourth requirement is ensuring that state law does not prevent a juvenile court judge from issuing a court order against a parent or guardian of a juvenile offender regarding the supervision of such an offender and from imposing sanctions for a violation of such an order.

Section 1802(b) also establishes the eligibility criteria for units of local government, both within States which qualify for funding, and within States that do not qualify. While the criteria for localities are the same as for States, it is important to note that the criteria do not apply in the same way to localities as to the States. This distinction is reflected in the language of section 1802(b)(1), which provides that localities must only provide assurances to the State (or, in the case of a locality within a nonqualifying State, to the Director of BJA) that the four requirements are being met “to the maximum extent applicable.” In this provision, the Committee recognizes that localities are not able, by themselves, to effect certain reforms, including adult prosecution of juveniles and juvenile records reforms. As such, it would be unworkable to require localities within nonqualifying States to meet the four requirements of section 1802. It is the Committee’s view that localities in nonqualifying States will only need to assure the Director of BJA that they have in place policies or programs which result in a sanction being imposed for every delinquent or criminal act, with sanctions escalating in severity with each subsequent, more serious offense. At the same time, it is the Committee’s view that localities within qualifying States will almost always qualify by virtue of the States meeting the requirements.

Sec. 1803. Allocation and distribution of funds.—This section requires that 75 percent of the funding received by a State be provided to localities. This pass-through provision is intended to provide maximum resources to county governments in particular, which bear the largest burden in the administration of juvenile justice systems. This is accomplished in the distribution formula by placing greater weight on the variable of law enforcement expenditures rather than on the variable of the number of crimes. Similar to the 1996 truth-in-sentencing legislation for the States, the accountability incentive grants would encourage the States and localities to enact accountability-based juvenile crime reforms, and provide much needed assistance to the growing number of States and localities that have already enacted such reforms.

It is the view of the Committee that States do not have the discretion to refuse to make a grant to localities which have provided the requisite assurances, absent a good faith basis for believing that the assurances provided are inaccurate.

Sec. 1804. Regulations.—This section requires the Director to issue regulations establishing procedures under which an eligible State or locality that receives funds under section 1803 is required to provide notice to the Director regarding the proposed use of funds made available under this part.

Sec. 1805. Payment requirements.—This section establishes various provisions regarding payment of funds to eligible States and localities.

Sec. 1806. Utilization of private sector.—This section provides that funds may be used to contract with private, nonprofit entities

or community-based organizations to carry out the purposes of section 1801.

Sec. 1807. Administrative provisions.—This section establishes administrative provisions for recipient States.

Sec. 1808. Definitions.—This section provides definitions of key terms in the legislation.

Sec. 1809. Authorization of appropriations.—This section authorizes \$500,000,000 for each fiscal year from fiscal year 1998 through fiscal year 2000.

AGENCY VIEWS

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 23, 1997.

Hon. HENRY HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As the Committee prepares to mark up H.R. 3, the Juvenile Crime Control Act of 1997, I write to convey the views of the Administration on this bill.

Enactment of comprehensive legislation to address youth and gang violence and drug use is a top priority of this Administration. Accordingly, on February 25, 1997, we transmitted to Congress the Anti-Gang and Youth Violence Act of 1997, which has been introduced as H.R. 810 by Congressman Charles Schumer. This bill is based in part on the recent success of Boston's three-pronged strategy of prevention, intervention and enforcement for youth violence. In Boston, youth homicides have dropped some 80% citywide from 1990 to 1996, and in 1996 not a single juvenile died in a firearm homicide in the city.

We commend you, Chairman McCollum and other Members of the Committee, for taking up this issue and hope that we can work together to enact the best possible legislation to both fight and prevent juvenile and youth crime. We understand that the Committee will consider a substitute amendment to H.R. 3 which will modify this legislation in several respects. We believe, however, that this bill can still be greatly improved to reflect the comprehensive enforcement and prevention approach represented by the Administration's legislation.

We agree with law enforcement officials all over this nation who believe that legislation to address youth and gang violence in a comprehensive and effective manner must adopt a balanced approach that combines elements of enforcement and prosecution with targeted and selective prevention efforts. Specifically, we believe that any bill that emerges from the Congress should include the following elements:

- meaningful reform of the federal juvenile justice system that, inter alia, allows prosecutors greater flexibility in prosecuting juveniles as adults and that is more responsive to the rights of victims;

- a provision that child safety locks be required to be purchased with each firearm sold by a federally licensed dealer;

- a prohibition on firearm possession by juveniles adjudicated delinquent of offenses that would have been felonies (and thus barred the offender from gun possession) if committed by an adult;

- targeted funding to ensure that local prosecutors can hire additional gang prosecutors;

- targeted funding, beginning in FY 1998, to ensure localities can establish court-based programs to specifically address issues of juvenile and youth violence;

- tough enforcement provisions to protect witnesses who help prosecute gangs and other violent offenders;

- tough drug enforcement provisions to increase penalties for selling drugs to kids, using kids to sell drugs and selling drugs in schools, and provisions requiring drug testing of violent offenders and authorizing use of prison grant funds for drug testing, treatment and supervision of incarcerated offenders;

- tough enforcement provisions for possessing firearms while committing violent or drug crimes; and

- targeted funding, beginning in FY 1998, for effective prevention programs that target at risk youth and keep schools open to provide young people with alternatives to criminal activity.

These and other provisions included in the Administration's proposal are essential elements of an effective, comprehensive approach to preventing and fighting youth and gang violence and drug related crime. We look forward to working with the Committee and other Members of the Congress to ensure that these elements are included in the final bill.

We now turn specifically to the provisions of the bill to be marked up tomorrow. We are pleased that Title I of H.R. 3, as it would be amended by the substitute, recognizes the need to revise the statutes governing prosecution of juveniles as adults. We support the bulk of this title, many of the provisions of which are the same or substantially similar to our proposal. Both H.R. 3 and H.R. 810, for example, would transfer from the court to the prosecutor the discretion to charge juveniles as adults. We believe, however, that our proposed formulation better achieves the goals of simplifying this process and holding juveniles accountable for serious crimes.

The bill under consideration by the Committee would require that juveniles alleged to have committed certain violent or drug trafficking crimes after having reached 14 years of age be prosecuted as adults unless the prosecutor certifies to the court that the interests of public safety are best served by a juvenile proceeding. We believe that this requirement unwisely and unnecessarily restricts prosecutorial discretion in this sensitive charging decision. Also, our proposal would allow certain juveniles to file a motion with the court for an expedited consideration of a request to be proceeded against in a delinquency proceeding. Thus, H.R. 810's approach recognizes the need to streamline this process, while ensuring that juveniles are held accountable for serious crimes.

Title II of H.R. 3, as it would be amended by the substitute, contains an "armed violent youth apprehension directive" that requires that each U.S. Attorney take certain steps to establish armed violent youth task forces and that the Department of Justice periodi-

cally submit statistical information concerning prosecutions brought by the task forces to Congress. We believe this level of management of the Department by the Congress is unnecessary and would have the unintended effect of reducing the flexibility that our U.S. Attorney's offices must have in order to have the maximum impact against the predominant crime problems in their respective districts.

Title III of H.R. 3, as it would be amended by the substitute, would establish a block grant program whose stated goal is to assist state and local law enforcement agencies implement accountability-based, graduated sanctions for juvenile offenders. We applaud the goals of this program and agree that there is a need for intervention and accountability in the juvenile justice system early in the process. We have certain concerns about how the program is structured and intended to operate as well as the conditions for receipt of the funds that we believe unnecessarily limits the pool of prospective recipients. We would be happy to work with the Committee to address these issues.

More fundamentally, however, the block grant program will not ensure that needed funds for additional gang prosecutors will actually be available to state and local prosecutors for that purpose and that funds to establish court-based programs to better address youth violence will also not be ensured. The Administration's proposal includes programs to provide assistance to prosecutors' offices to fight gangs and assistance to courts to expedite and more effectively handle violent juveniles in the court system, in addition to important programs providing funding for prevention and intervention initiatives.

Although we are cognizant of the jurisdictional issues with which the Committee is dealing, we believe that it is essential that Congress authorize and appropriate in the coming fiscal year adequate funds to be distributed to state and local prevention and intervention programs to help juveniles at risk stay on or get back on the right track, and that we maintain basic protections for juvenile delinquents in custody. We can leave no stone unturned in this legislative effort to fight juvenile crime and we cannot afford to have future generations ask why we did not do more to stem the tide of youth violence.

Notably absent from H.R. 3 are provisions such as those in H.R. 810 to promote firearms safety and target illegal firearms possession and distribution. Our proposed requirement that child safety locks be sold with every gun is essential to protect our children. This provision is intended to provide added safety to gun owners and to prevent accidental discharges that can result when children gain access to firearms. I hope that the Committee will join the Administration in supporting this important safety measure as well as our provision to keep firearms out of the hands of those who have committed serious offenses as juveniles.

H.R. 3 omits certain other critical elements. We would urge the Committee, at some point in the legislative process, to adopt from H.R. 810 provisions providing new laws and stiffer penalties to fight gangs, disrupt their illegal gun and drug markets and protect the witnesses who want to testify against them.

We all look forward to working with you to improve H.R. 3 so that we can enact the best possible youth crime legislation. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

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PART II—CRIMINAL PROCEDURE

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CHAPTER 227—SENTENCES

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SUBCHAPTER A—GENERAL PROVISIONS

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§ 3553. Imposition of a sentence

(a) * * *

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(g) *LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN PROSECUTIONS OF PERSONS UNDER THE AGE OF 16.—Notwithstanding any other provision of law, in the case of a defendant convicted for conduct that occurred before the juvenile attained the age of 16 years, the court shall impose a sentence without regard to any statutory minimum sentence, if the court finds at sentencing, after affording the Government an opportunity to make a recommendation, that the juvenile has not been previously adjudicated delinquent for or convicted of an offense described in section 5032(b)(1)(B).*

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PART IV—CORRECTION OF YOUTHFUL OFFENDERS

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[CHAPTER 403—JUVENILE DELINQUENCY

- [Sec.
- [5031. Definitions.
- [5032. Delinquency proceedings in district courts; transfer for criminal prosecution.
- [5033. Custody prior to appearance before magistrate.
- [5034. Duties of magistrate.
- [5035. Detention prior to disposition.
- [5036. Speedy trial.
- [5037. Dispositional hearing.
- [5038. Use of juvenile records.
- [5039. Commitment.
- [5040. Support.
- [5041. Repealed.
- [5042. Revocation of probation.]

CHAPTER 403—JUVENILE DELINQUENCY

- Sec.*
- 5031. Definitions.*
- 5032. Delinquency proceedings or criminal prosecutions in district courts.*
- 5033. Custody prior to appearance before judicial officer.*
- 5034. Duties of judicial officer.*
- 5035. Detention prior to disposition or sentencing.*
- 5036. Speedy trial.*
- 5037. Disposition.*
- 5038. Juvenile records and fingerprinting.*
- 5039. Commitment.*
- 5040. Support.*
- 5041. Repealed.*
- 5042. Revocation of probation.*

§ 5031. Definitions

For the purposes of this chapter, a “juvenile” is a person who has not attained [his] *the juvenile’s* eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday, and “juvenile delinquency” is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult or a violation by such a person of section 922(x).

[§ 5032. Delinquency proceedings in district courts; transfer for criminal prosecution

[A juvenile alleged to have committed an act of juvenile delinquency, other than a violation of law committed within the special maritime and territorial jurisdiction of the United States for which the maximum authorized term of imprisonment does not exceed six months, shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate district court of the United States that (1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, (2) the State does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import

and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3)), section 922(x) or section 924(b), (g), or (h) of this title, and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

¶If the Attorney General does not so certify, such juvenile shall be surrendered to the appropriate legal authorities of such State. For purposes of this section, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

¶If an alleged juvenile delinquent is not surrendered to the authorities of a State pursuant to this section, any proceedings against him shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The Attorney General shall proceed by information or as authorized under section 3401(g) of this title, and no criminal prosecution shall be instituted for the alleged act of juvenile delinquency except as provided below.

¶A juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless he has requested in writing upon advice of counsel to be proceeded against as an adult, except that, with respect to a juvenile fifteen years and older alleged to have committed an act after his fifteenth birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 922(x) of this title, or in section 924(b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, such transfer would be in the interest of justice. In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), ‘thirteen’ shall be substituted for “fifteen” and “thirteenth” shall be substituted for “fifteenth”. Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However, a juvenile who is alleged to have committed an act after his sixteenth birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844(d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Con-

trolled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this paragraph or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.

【Evidence of the following factors shall be considered, and findings with regard to each factor shall be made in the record, in assessing whether a transfer would be in the interest of justice: the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile's prior delinquency record; the juvenile's present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile's response to such efforts; the availability of programs designed to treat the juvenile's behavioral problems. In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.

【Reasonable notice of the transfer hearing shall be given to the juvenile, his parents, guardian, or custodian and to his counsel. The juvenile shall be assisted by counsel during the transfer hearing, and at every other critical stage of the proceedings.

【Once a juvenile has entered a plea of guilty or the proceeding has reached the stage that evidence has begun to be taken with respect to a crime or an alleged act of juvenile delinquency subsequent criminal prosecution or juvenile proceedings based upon such alleged act of delinquency shall be barred.

【Statements made by a juvenile prior to or during a transfer hearing under this section shall not be admissible at subsequent criminal prosecutions.

【Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

【A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable and why it is unavailable.

【Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the offi-

cial record of the proceedings and part of the juvenile's official record.

[§ 5033. Custody prior to appearance before magistrate

[Whenever a juvenile is taken into custody for an alleged act of juvenile delinquency, the arresting officer shall immediately advise such juvenile of his legal rights, in language comprehensive to a juvenile, and shall immediately notify the Attorney General and the juvenile's parents, guardian, or custodian of such custody. The arresting officer shall also notify the parents, guardian, or custodian of the rights of the juvenile and of the nature of the alleged offense.

[The juvenile shall be taken before a magistrate forthwith. In no event shall the juvenile be detained for longer than a reasonable period of time before being brought before a magistrate.]

§ 5032. Delinquency proceedings or criminal prosecutions in district courts

(a)(1) *A juvenile alleged to have committed an offense against the United States or an act of juvenile delinquency may be surrendered to State authorities, but if not so surrendered, shall be proceeded against as a juvenile under this subsection or tried as an adult in the circumstances described in subsections (b) and (c).*

(2) *A juvenile may be proceeded against as a juvenile in a court of the United States under this subsection if—*

(A) the alleged offense or act of juvenile delinquency is committed within the special maritime and territorial jurisdiction of the United States and is one for which the maximum authorized term of imprisonment does not exceed 6 months; or

(B) the Attorney General, after investigation, certifies to the appropriate United States district court that—

(i) the juvenile court or other appropriate court of a State does not have jurisdiction or declines to assume jurisdiction over the juvenile with respect to the alleged act of juvenile delinquency, and

(ii) there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.

(3) *If the Attorney General does not so certify or does not have authority to try such juvenile as an adult, such juvenile shall be surrendered to the appropriate legal authorities of such State.*

(4) *If a juvenile alleged to have committed an act of juvenile delinquency is proceeded against as a juvenile under this section, any proceedings against the juvenile shall be in an appropriate district court of the United States. For such purposes, the court may be convened at any time and place within the district, and shall be open to the public, except that the court may exclude all or some members of the public, other than a victim unless the victim is a witness in the determination of guilt or innocence, if required by the interests of justice or if other good cause is shown. The Attorney General shall proceed by information or as authorized by section 3401(g) of this title, and no criminal prosecution shall be instituted except as provided in this chapter.*

(b)(1) *Except as provided in paragraph (2), a juvenile shall be prosecuted as an adult—*

(A) if the juvenile has requested in writing upon advice of counsel to be prosecuted as an adult; or

(B) if the juvenile is alleged to have committed an act after the juvenile attains the age of 14 years which if committed by an adult would be a serious violent felony or a serious drug offense described in section 3559(c) of this title, or a conspiracy or attempt to commit that felony or offense, which is punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846), or section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963).

(2) The requirements of paragraph (1) do not apply if the Attorney General certifies to the appropriate United States district court that the interests of public safety are best served by proceeding against the juvenile as a juvenile.

(c)(1) A juvenile may also be prosecuted as an adult if the juvenile is alleged to have committed an act after the juvenile has attained the age of 13 years which if committed by a juvenile after the juvenile attained the age of 14 years would require that the juvenile be prosecuted as an adult under subsection (b), upon approval of the Attorney General.

(2) The Attorney General shall not delegate the authority to give the approval required under paragraph (1) to an officer or employee of the Department of Justice at a level lower than a Deputy Assistant Attorney General.

(3) Such approval shall not be granted, with respect to such a juvenile who is subject to the criminal jurisdiction of an Indian tribal government and who is alleged to have committed an act over which, if committed by an adult, there would be Federal jurisdiction based solely on its commission in Indian country (as defined in section 1151), unless the governing body of the tribe having jurisdiction over the place in which the alleged act was committed has before such act notified the Attorney General in writing of its election that prosecution may take place under this subsection.

(4) A juvenile may also be prosecuted as an adult if the juvenile is alleged to have committed an act which is not described in subsection (b)(1)(B) after the juvenile has attained the age of 14 years and which if committed by an adult would be—

(A) a crime of violence (as defined in section 3156(a)(4)) that is a felony;

(B) an offense described in section 844 (d), (k), or (l), or subsection (a)(6), (b), (g), (h), (j), (k), or (l) of section 924;

(C) a violation of section 922(o) that is an offense under section 924(a)(2);

(D) a violation of section 5861 of the Internal Revenue Code of 1986 that is an offense under section 5871 of such Code (26 U.S.C. 5871);

(E) a conspiracy to commit an offense described in any of subparagraphs (A) through (D); or

(F) an offense described in section 401 or 408 of the Controlled Substances Act (21 U.S.C. 841, 848) or a conspiracy or attempt to commit that offense which is punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846), or an offense punishable under section 409 or 419 of the Controlled Substances Act (21 U.S.C. 849, 860), or an offense de-

scribed in section 1002, 1003, 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 955, or 959), or a conspiracy or attempt to commit that offense which is punishable under section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963).

(d) A determination to approve or not to approve, or to institute or not to institute, a prosecution under subsection (b) or (c), and a determination to file or not to file, and the contents of, a certification under subsection (a) or (b) shall not be reviewable in any court.

(e) In a prosecution under subsection (b) or (c), the juvenile may be prosecuted and convicted as an adult for any other offense which is properly joined under the Federal Rules of Criminal Procedure, and may also be convicted of a lesser included offense.

(f) The Attorney General shall annually report to Congress—

(1) the number of juveniles adjudicated delinquent or tried as adults in Federal court;

(2) the race, ethnicity, and gender of those juveniles;

(3) the number of those juveniles who were abused or neglected by their families, to the extent such information is available; and

(4) the number and types of assault crimes, such as rapes and beatings, committed against juveniles while incarcerated in connection with the adjudication or conviction.

(g) As used in this section—

(1) the term “State” includes a State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States and, with regard to an act of juvenile delinquency that would have been a misdemeanor if committed by an adult, a federally recognized tribe; and

(2) the term “serious violent felony” has the same meaning given that term in section 3559(c)(2)(F)(i).

§ 5033. Custody prior to appearance before judicial officer

(a) Whenever a juvenile is taken into custody, the arresting officer shall immediately advise such juvenile of the juvenile’s rights, in language comprehensible to a juvenile. The arresting officer shall promptly take reasonable steps to notify the juvenile’s parents, guardian, or custodian of such custody, of the rights of the juvenile, and of the nature of the alleged offense.

(b) The juvenile shall be taken before a judicial officer without unreasonable delay.

§ 5034. Duties of [magistrate] judicial officer

In a proceeding under section 5032(a)—

[The magistrate] *(1) the judicial officer shall insure that the juvenile is represented by counsel before proceeding with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and [his] the juvenile’s parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and [his] the juvenile’s parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the [magistrate] judicial officer may assign counsel*

and order the payment of reasonable attorney's fees or may direct the juvenile, [his] *the juvenile's* parents, guardian, or custodian to retain private counsel within a specified period of time.

[The magistrate] (2) *the judicial officer* may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the [magistrate] *judicial officer* has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

[If] (3) *if* the juvenile has not been discharged before [his] initial appearance before the [magistrate] *judicial officer*, the [magistrate] *judicial officer* shall release the juvenile to [his] *the juvenile's* parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the [magistrate] *judicial officer* determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure [his] *the juvenile's* timely appearance before the appropriate court or to insure [his] *the juvenile's* safety or that of others.

[§ 5035. Detention prior to disposition

[A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Insofar as possible, alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment.]

§ 5035. Detention prior to disposition or sentencing

(a)(1) *A juvenile who has attained the age of 16 years and who is prosecuted pursuant to subsection (b) or (c) of section 5032, if detained at any time prior to sentencing, shall be detained in such suitable place as the Attorney General may designate. Preference shall be given to a place located within, or within a reasonable distance of, the district in which the juvenile is being prosecuted.*

(2) *A juvenile less than 16 years of age prosecuted pursuant to subsection (b) or (c) of section 5032, if detained at any time prior to sentencing, shall be detained in a suitable juvenile facility located within, or within a reasonable distance of, the district in which the juvenile is being prosecuted. If such a facility is not available, such a juvenile may be detained in any other suitable facility located within, or within a reasonable distance of, such district. If no such facility is available, such a juvenile may be detained in any other suitable place as the Attorney General may designate.*

(3) *To the maximum extent feasible, a juvenile less than 16 years of age prosecuted pursuant to subsection (b) or (c) of section 5032 shall not be detained prior to sentencing in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges.*

(b) *A juvenile proceeded against under section 5032 shall not be detained prior to disposition in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges.*

(c) *Every juvenile who is detained prior to disposition or sentencing shall be provided with reasonable safety and security and with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment.*

§ 5036. Speedy trial

[If an alleged delinquent] *If a juvenile proceeded against under section 5032(a) who is in detention pending trial is not brought to trial within [thirty] 45 days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of [the court, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in the interest of justice in the particular case. Delays attributable solely to court calendar congestion may not be considered in the interest of justice. Except in extraordinary circumstances, an information dismissed under this section may not be reinstituted.] the court. The periods of exclusion under section 3161(h) of this title shall apply to this section.*

§ 5037. Disposition hearing

[(a)] *If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection (d). After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.*

[(b)] *The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend—*

[(1)] *in the case of a juvenile who is less than eighteen years old, beyond the lesser of—*

[(A)] *the date when the juvenile becomes twenty-one years old; or*

[(B)] *the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult; or*

[(2)] *in the case of a juvenile who is between eighteen and twenty-one years old, beyond the lesser of—*

[(A) three years; or

[(B) the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult.

The provisions dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

[(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

[(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

[(A) the date when the juvenile becomes twenty-one years old; or

[(B) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult; or

[(2) in the case of a juvenile who is between eighteen and twenty-one years old—

[(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

[(B) in any other case beyond the lesser of—

[(i) three years; or

[(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.

Section 3624 is applicable to an order placing a juvenile under detention.

[(d) If the court desires more detailed information concerning an alleged or adjudicated delinquent, it may commit him, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency. Such observation and study shall be conducted on an out-patient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information. In the case of an alleged juvenile delinquent, inpatient study may be ordered only with the consent of the juvenile and his attorney. The agency shall make a complete study of the alleged or adjudicated delinquent to ascertain his personal traits, his capabilities, his background, any previous delinquency or criminal experience, any mental or physical defect, and any other relevant factors. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within thirty days after the commitment of the juvenile, unless the court grants additional time.

§ 5038. Use of juvenile records

[(a) Throughout and upon the completion of the juvenile delinquency proceeding, the records shall be safeguarded from disclosure to unauthorized persons. The records shall be released to the extent necessary to meet the following circumstances:

[(1) inquiries received from another court of law;

[(2) inquiries from an agency preparing a presentence report for another court;

[(3) inquiries from law enforcement agencies where the request for information is related to the investigation of a crime or a position within that agency;

[(4) inquiries, in writing, from the director of a treatment agency or the director of a facility to which the juvenile has been committed by the court;

[(5) inquiries from an agency considering the person for a position immediately and directly affecting the national security; and

[(6) inquiries from any victim of such juvenile delinquency, or if the victim is deceased from the immediate family of such victim, related to the final disposition of such juvenile by the court in accordance with section 5037.

Unless otherwise authorized by this section, information about the juvenile record may not be released when the request for information is related to an application for employment, license, bonding, or any civil right or privilege. Responses to such inquiries shall not be different from responses made about persons who have never been involved in a delinquency proceeding.

[(b) District courts exercising jurisdiction over any juvenile shall inform the juvenile, and his parent or guardian, in writing in clear and nontechnical language, of rights relating to his juvenile record.

[(c) During the course of any juvenile delinquency proceeding, all information and records relating to the proceeding, which are obtained or prepared in the discharge of an official duty by an employee of the court or an employee of any other governmental agency, shall not be disclosed directly or indirectly to anyone other than the judge, counsel for the juvenile and the Government, or others entitled under this section to receive juvenile records.

[(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, such juvenile shall be fingerprinted and photographed. Except a juvenile described in subsection (f), fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult defendants.

[(e) Unless a juvenile who is taken into custody is prosecuted as an adult neither the name nor picture of any juvenile shall be made public in connection with a juvenile delinquency proceeding.

[(f) Whenever a juvenile has on two separate occasions been found guilty of committing an act which if committed by an adult would be a felony crime of violence or an offense described in section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act, or whenever a juvenile has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title, the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudications, including name, date of adjudication, court, offenses, and

sentence, along with the notation that the matters were juvenile adjudications.】

§5037. Disposition

(a) *In a proceeding under section 5032(a), if the court finds a juvenile to be a juvenile delinquent, the court shall hold a hearing concerning the appropriate disposition of the juvenile no later than 40 court days after the finding of juvenile delinquency, unless the court has ordered further study pursuant to subsection (e). A predisposition report shall be prepared by the probation officer who shall promptly provide a copy to the juvenile, the juvenile's counsel, and the attorney for the Government. Victim impact information shall be included in the report, and victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or present any information in relation to the disposition. After the dispositional hearing, and after considering the sanctions recommended pursuant to subsection (f), the court shall impose an appropriate sanction, including the ordering of restitution pursuant to section 3556 of this title. The court may order the juvenile's parent, guardian, or custodian to be present at the dispositional hearing and the imposition of sanctions and may issue orders directed to such parent, guardian, custodian regarding conduct with respect to the juvenile. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to chapter 207.*

(b) *The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the maximum term that would be authorized by section 3561(c) if the juvenile had been tried and convicted as an adult. Sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.*

(c) *The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond the lesser of—*

(1) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult;

(2) ten years; or

(3) the date when the juvenile becomes twenty-six years old. Section 3624 is applicable to an order placing a juvenile in detention.

(d) *The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend beyond 5 years. Subsections (c) through (i) of section 3583 apply to an order placing a juvenile on supervised release.*

(e) *If the court desires more detailed information concerning a juvenile alleged to have committed an act of juvenile delinquency or a juvenile adjudicated delinquent, it may commit the juvenile, after notice and hearing at which the juvenile is represented by counsel, to the custody of the Attorney General for observation and study by an appropriate agency or entity. Such observation and study shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information. In the case of an alleged juvenile delinquent, in-*

patient study may be ordered only with the consent of the juvenile and the juvenile's attorney. The agency or entity shall make a study of all matters relevant to the alleged or adjudicated delinquent behavior and the court's inquiry. The Attorney General shall submit to the court and the attorneys for the juvenile and the Government the results of the study within 30 days after the commitment of the juvenile, unless the court grants additional time. Time spent in custody under this subsection shall be excluded for purposes of section 5036.

(f)(1) The United States Sentencing Commission, in consultation with the Attorney General, shall develop a list of possible sanctions for juveniles adjudicated delinquent.

(2) Such list shall—

(A) be comprehensive in nature and encompass punishments of varying levels of severity;

(B) include terms of confinement; and

(C) provide punishments that escalate in severity with each additional or subsequent more serious delinquent conduct.

§5038. Juvenile records and fingerprinting

(a)(1) Throughout and upon the completion of the juvenile delinquency proceeding under section 5032(a), the court shall keep a record relating to the arrest and adjudication that is—

(A) equivalent to the record that would be kept of an adult arrest and conviction for such an offense; and

(B) retained for a period of time that is equal to the period of time records are kept for adult convictions.

(2) Such records shall be made available for official purposes, including communications with any victim or, in the case of a deceased victim, such victim's representative, or school officials, and to the public to the same extent as court records regarding the criminal prosecutions of adults are available.

(b) The Attorney General shall establish guidelines for fingerprinting and photographing a juvenile who is the subject of any proceeding authorized under this chapter. Such guidelines shall address the availability of pictures of any juvenile taken into custody but not prosecuted as an adult. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult offenders.

(c) Whenever a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 924(a)(6), the court shall transmit to the Federal Bureau of Investigation the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication.

(d) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure,

or availability is permitted under this section whenever the same circumstances exist.

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OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

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TITLE I—JUSTICE SYSTEM IMPROVEMENT

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[PART R—TRANSITION; EFFECTIVE DATE; REPEALER

[Sec. 1801. Continuation of rules, authorities, and proceedings.

[Sec. 1701. Continuation of rules, authorities, and proceedings.]

PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

Sec. 1801. Program authorized.

Sec. 1802. Grant eligibility.

Sec. 1803. Allocation and distribution of funds.

Sec. 1804. Regulations.

Sec. 1805. Payment requirements.

Sec. 1806. Utilization of private sector.

Sec. 1807. Administrative provisions.

Sec. 1808. Definitions.

Sec. 1809. Authorization of appropriations.

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[PART R—CERTAIN PUNISHMENT FOR YOUNG OFFENDERS

[SEC. 1801. GRANT AUTHORIZATION.

[(a) IN GENERAL.—The Attorney General may make grants under this part to States, for the use by States and units of local government, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

[(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certain punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

[(1) alternative sanctions that create accountability and certain punishment for young offenders;

[(2) restitution programs for young offenders;

[(3) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.) and projects that provide family counseling;

[(4) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

[(5) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

[(6) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse) and gang-related offenses; and

[(7) adequate and appropriate after care programs for young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, family counseling and other support programs upon release.

[SEC. 1802. STATE APPLICATIONS.

[(a) IN GENERAL.—

[(1) SUBMISSION OF APPLICATION.—To request a grant under this part, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

[(2) ASSURANCES.—An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

[(b) STATE OFFICE.—The office designated under section 507—

[(1) shall prepare the application as required under subsection (a); and

[(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

[SEC. 1803. REVIEW OF STATE APPLICATIONS.

[(a) IN GENERAL.—The Attorney General shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

[(1) the application is consistent with the requirements of this part; and

[(2) before the approval of the application, the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

[(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Attorney General not later than 45 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

[(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b).

[(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording

the applicant reasonable notice and an opportunity for reconsideration.

[SEC. 1804. LOCAL APPLICATIONS.

[(a) IN GENERAL.—

[(1) SUBMISSION OF APPLICATION.—To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

[(2) APPROVAL.—An application under paragraph (1) shall be considered to have been approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

[(3) DISAPPROVAL.—The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

[(4) EFFECT OF APPROVAL.—If an application under subsection (a) is approved, the unit of local government is eligible to receive funds under this part.

[(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Attorney General has approved the application submitted by the State and has made funds available to the State. The Attorney General may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

[SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

[(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

[(1) 0.4 percent shall be allocated to each of the participating States; and

[(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

[(b) LOCAL DISTRIBUTION.—

[(1) IN GENERAL.—A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

[(2) UNDISTRIBUTED FUNDS.—Any funds not distributed to units of local government under paragraph (1) shall be avail-

able for expenditure by such State for purposes specified under section 1801.

[(3) UNUSED FUNDS.—If the Attorney General determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Attorney General shall award such funds to units of local government in such State giving priority to the units of local government that the Attorney General considers to have the greatest need.

[(c) GENERAL REQUIREMENT.—Notwithstanding subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Attorney General.

[(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802(a) for the fiscal year for which the projects receive assistance under this part.

[(e) CONSIDERATION.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Attorney General shall consider as a factor whether a State has in effect throughout such State a law or policy that requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

[(1) be suspended from school for a reasonable period of time; and

[(2) lose driving license privileges for a reasonable period of time.

[(f) DEFINITION.—For purposes of this part, “juvenile” means a person 18 years of age or younger.

[SEC. 1806. EVALUATION.

[(a) IN GENERAL.—

[(1) SUBMISSION TO THE DIRECTOR.—Each State and unit of local government that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in accordance with guidelines issued by the Attorney General. Such evaluation shall include an appraisal by representatives of the community of the programs funded by the grant.

[(2) WAIVER.—The Attorney General may waive the requirement specified in paragraph (1) if the Attorney General determines that such evaluation is not warranted in the case of the State or unit of local government involved.

[(b) DISTRIBUTION.—The Attorney General shall make available to the public on a timely basis evaluations received under subsection (a).

[(c) ADMINISTRATIVE COSTS.—A State or unit of local government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.]

PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

SEC. 1801. PROGRAM AUTHORIZED.

(a) *IN GENERAL.*—The Director of the Bureau of Justice Assistance is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to eligible units.

(b) *AUTHORIZED ACTIVITIES.*—Amounts paid to a State, a unit of local government, or an eligible unit under this part shall be used by the State, unit of local government, or eligible unit for the purpose of promoting greater accountability in the juvenile justice system, which includes—

(1) building, expanding or operating temporary or permanent juvenile correction or detention facilities;

(2) developing and administering accountability-based sanctions for juvenile offenders;

(3) hiring additional juvenile judges, probation officers, and court-appointed defenders, and funding pre-trial services for juveniles, to ensure the smooth and expeditious administration of the juvenile justice system;

(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and backlogs reduced;

(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively;

(6) providing funding for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

(7) providing funding to enable juvenile courts and juvenile probation offices to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism;

(8) the establishment of court-based juvenile justice programs that target young firearms offenders through the establishment of juvenile gun courts for the adjudication and prosecution of juvenile firearms offenders;

(9) the establishment of drug court programs for juveniles so as to provide continuing judicial supervision over juvenile offenders with substance abuse problems and to provide the integrated administration of other sanctions and services;

(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice system, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts; and

(11) establishing and maintaining accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies, or which are designed, in cooperation with law enforcement officials, to protect students and school personnel from drug, gang, and youth violence.

SEC. 1802. GRANT ELIGIBILITY.

(a) *STATE ELIGIBILITY.*—To be eligible to receive a grant under this section, a State shall submit to the Director an application at such time, in such form, and containing such assurances and information as the Director may require by rule, including assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or will have in effect not later than 1 year after the date a State submits such application) laws, or has implemented (or will implement not later than 1 year after the date a State submits such application) policies and programs, that—

(1) ensure that juveniles who commit an act after attaining 15 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution as a matter of law, or that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults;

(2) impose sanctions on juvenile offenders for every delinquent or criminal act, or violation of probation, ensuring that such sanctions escalate in severity with each subsequent, more serious delinquent or criminal act, or violation of probation, including such accountability-based sanctions as—

(A) restitution;

(B) community service;

(C) punishment imposed by community accountability councils comprised of individuals from the offender's and victim's communities;

(D) fines; and

(E) short-term confinement;

(3) establish at a minimum a system of records relating to any adjudication of a juvenile who has a prior delinquency adjudication and who is adjudicated delinquent for conduct that if committed by an adult would constitute a felony under Federal or State law which is a system equivalent to that maintained for adults who commit felonies under Federal or State law; and

(4) ensure that State law does not prevent a juvenile court judge from issuing a court order against a parent, guardian, or custodian of a juvenile offender regarding the supervision of such an offender and from imposing sanctions for a violation of such an order.

(b) LOCAL ELIGIBILITY.—

(1) *SUBGRANT ELIGIBILITY.*—To be eligible to receive a subgrant, a unit of local government shall provide such assurances to the State as the State shall require, that, to the maximum extent applicable, the unit of local government has laws or policies and programs which—

(A) ensure that juveniles who commit an act after attaining 15 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution as a matter of law, or that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults;

(B) impose a sanction for every delinquent or criminal act, or violation of probation, ensuring that such sanctions

escalate in severity with each subsequent, more serious delinquent or criminal act, or violation of probation; and

(C) ensure that there is a system of records relating to any adjudication of a juvenile who is adjudicated delinquent for conduct that if committed by an adult would constitute a felony under Federal or State law which is a system equivalent to that maintained for adults who commit felonies under Federal or State law.

(2) *SPECIAL RULE.*—The requirements of paragraph (1) shall apply to an eligible unit that receives funds from the Director under section 1803, except that information that would otherwise be submitted to the State shall be submitted to the Director.

SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE ALLOCATION.—

(1) *IN GENERAL.*—In accordance with regulations promulgated pursuant to this part, the Director shall allocate—

(A) 0.25 percent for each State; and

(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

(2) *PROPORTIONAL REDUCTION.*—If amounts available to carry out paragraph (1)(A) for any payment period are insufficient to pay in full the total payment that any State is otherwise eligible to receive under paragraph (1)(A) for such period, then the Director shall reduce payments under paragraph (1)(A) for such payment period to the extent of such insufficiency. Reductions under the preceding sentence shall be allocated among the States (other than States whose payment is determined under paragraph (2)) in the same proportions as amounts would be allocated under paragraph (1) without regard to paragraph (2).

(3) *PROHIBITION.*—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

(b) LOCAL DISTRIBUTION.—

(1) *IN GENERAL.*—Each State which receives funds under subsection (a)(1) in a fiscal year shall distribute not less than 75 percent of such amounts received among units of local government, for the purposes specified in section 1801. In making such distribution the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

(A) the sum of—

(i) the product of—

(I) two-thirds; multiplied by

(II) the average law enforcement expenditure for such unit of local government for the 3 most recent

calendar years for which such data is available;
plus
(ii) the product of—

(I) one-third; multiplied by
(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

(2) *EXPENDITURES.*—The allocation any unit of local government shall receive under paragraph (1) for a payment period shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.

(3) *REALLOCATION.*—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (2) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

(c) *UNAVAILABILITY OF DATA FOR UNITS OF LOCAL GOVERNMENT.*—If the State has reason to believe that the reported rate of part 1 violent crimes or law enforcement expenditure for a unit of local government is insufficient or inaccurate, the State shall—

(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

(2) if necessary, use the best available comparable data regarding the number of violent crimes or law enforcement expenditure for the relevant years for the unit of local government.

(d) *LOCAL GOVERNMENT WITH ALLOCATIONS LESS THAN \$5,000.*—If under this section a unit of local government is allocated less than \$5,000 for a payment period, the amount allotted shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

(e) *DIRECT GRANTS TO ELIGIBLE UNITS.*—

(1) *IN GENERAL.*—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Director, the Director shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to eligible units which meet the requirements for funding under subsection (b).

(2) *AWARD BASIS.*—In addition to the qualification requirements for direct grants for eligible units the Director may use the average amount allocated by the States to like governmental units as a basis for awarding grants under this section.

SEC. 1804. REGULATIONS.

The Director shall issue regulations establishing procedures under which an eligible State or unit of local government that receives funds under section 1803 is required to provide notice to the Director regarding the proposed use of funds made available under this part.

SEC. 1805. PAYMENT REQUIREMENTS.

(a) *TIMING OF PAYMENTS.*—The Director shall pay each State or unit of local government that receives funds under section 1803 that has submitted an application under this part not later than—

(1) 90 days after the date that the amount is available, or

(2) the first day of the payment period if the State has provided the Director with the assurances required by subsection (c),

whichever is later.

(b) *REPAYMENT OF UNEXPENDED AMOUNTS.*—

(1) *REPAYMENT REQUIRED.*—From amounts appropriated under this part, a State shall repay to the Director, by not later than 27 months after receipt of funds from the Director, any amount that is not expended by the State within 2 years after receipt of such funds from the Director.

(2) *PENALTY FOR FAILURE TO REPAY.*—If the amount required to be repaid is not repaid, the Director shall reduce payment in future payment periods accordingly.

(3) *DEPOSIT OF AMOUNTS REPAID.*—Amounts received by the Director as repayments under this subsection shall be deposited in a designated fund for future payments to States.

(c) *ADMINISTRATIVE COSTS.*—A State, unit of local government or eligible unit that receives funds under this part may use not more than one percent of such funds to pay for administrative costs.

(d) *NONSUPPLANTING REQUIREMENT.*—Funds made available under this part to States, units of local government, or eligible units shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

(e) *MATCHING FUNDS.*—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a program or proposal funded under this part.

SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

Funds or a portion of funds allocated under this part may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 1801(a)(2).

SEC. 1807. ADMINISTRATIVE PROVISIONS.

(a) *IN GENERAL.*—A State that receives funds under this part shall—

(1) establish a trust fund in which the government will deposit all payments received under this part; and

(2) use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the State;

(3) designate an official of the State to submit reports as the Director reasonably requires, in addition to the annual reports required under this part; and

(4) spend the funds only for the purposes under section 1801(b).

(b) *TITLE I PROVISIONS.*—The administrative provisions of part H shall apply to this part and for purposes of this section any ref-

erence in such provisions to title I shall be deemed to include a reference to this part.

SEC. 1808. DEFINITIONS.

For the purposes of this part:

(1) The term “unit of local government” means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

(2) The term “eligible unit” means a unit of local government which may receive funds under section 1803(e).

(3) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 1803(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(4) The term “juvenile” means an individual who is 17 years of age or younger.

(5) The term “law enforcement expenditures” means the expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

(6) The term “part 1 violent crimes” means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(7) The term “Director” means the Director of the Bureau of Justice Assistance.

SEC. 1809. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this part—

(1) \$500,000,000 for fiscal year 1998;

(2) \$500,000,000 for fiscal year 1999; and

(3) \$500,000,000 for fiscal year 2000.

(b) **OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.**—Not more than 1 percent of the amount authorized to be appropriated under subsection (a), with such amounts to remain available until expended, for each of the fiscal years 1998 through 2000 shall be available to the Director for studying the overall effectiveness and efficiency of the provisions of this part, assuring compliance with the provisions of this part, and for administrative costs to carry out the purposes of this part. The Director shall establish and execute an oversight plan for monitoring the activities of grant recipients.

(c) FUNDING SOURCE.—Appropriations for activities authorized in this part may be made from the Violent Crime Reduction Trust Fund.

* * * * *

ADDITIONAL VIEWS OF HON. CHARLES E. SCHUMER

I agree with the majority that juvenile crime is among the most pressing crime problems facing the nation, and that federal legislation addressing this problem is warranted. However, while I support many of the provisions of H.R. 3 as reported, the bill fails to address two areas critical to reducing juvenile crime: funding for community-based youth crime prevention efforts, and stopping the flow of guns to youth gangs. These omissions are just as significant as the provisions that have been included in the bill, and I hope that they will be remedied before this bill is enacted.

I. PROSECUTION OF JUVENILES AS ADULTS

I agree with the majority that federal laws regarding the prosecution of persons under 18 years of age need to be strengthened to give the Department of Justice authority to prosecute the most serious violent juvenile offenders as adult criminals. I note that the responsibility for prosecuting juvenile offenders rests almost entirely with the states, and that the number of juveniles who come under federal criminal jurisdiction is quite small. In those cases in which federal prosecutors do have jurisdiction over violent juvenile offenders, however, I believe federal law should permit prosecutors to seek punishment that is appropriate to the severity of the offense. Title I of H.R. 3, as reported, effects this goal.

II. DEFECTS OF THE GRANT PROGRAM IN H.R. 3

I do have serious concerns, however, about Title III of the bill, which authorizes \$500 million annually in block grants to states. Because juvenile justice is almost entirely a local responsibility, this title is perhaps the most important section of H.R. 3.

A. LACK OF FUNDING FOR CRIME-PREVENTION EFFORTS

First, and most important, I believe the bill's restrictions on the uses to which the grant funds can be put reflect an approach to juvenile justice policy that is far too narrow. Under H.R. 3, as reported, the grant funds can be used only for the construction or operation of juvenile confinement facilities, or for use in one or another component of the recipient's juvenile justice system (e.g., courts, prosecutors, probation departments). The crucial limitation, however, is that the funds can only be used to deal with juveniles who are already in the juvenile justice system. Not a penny of the grants can be used to prevent kids from becoming involved with gangs and crime in the first place. This is a terrible omission, and if not corrected it will result in a bill that is one-sided and not nearly as effective as it could be.

I believe that at least half of the grant funds ought to be available for well-designed, targeted programs that have proven to be

effective in reducing juvenile crime—efforts like community schools, mentoring programs, safe havens, and in-school peer mediation programs. At an April 7, 1997 hearing, the Subcommittee on Crime heard compelling testimony from representatives of three organizations—the Crown Heights Youth Collective, the Alliance for Concerned Men of Washington, D.C., and the Columbia County Program for At-Risk Youth—about the success these organizations have had in working with at-risk youth and helping young people to become successful, honest citizens. Last month, the Manhattan Institute, a conservative think-tank, released a study showing that well-crafted mentoring and intervention programs have demonstrable success in reducing recidivism among young offenders. The study focused on three prevention programs: Big Brothers and Big Sisters of America, the Youth Aid Panel in Philadelphia, and a coalition of churches in Boston.

I cite these specific examples not to single out individual efforts, but to show that there is a growing body of research, looking at specific programs actually in operation today, which proves that investment in smart prevention programs is repaid many times over in avoided incarceration costs and, more important, in lives put back on track. The problem is not that prevention doesn't work—the problem is that the programs that are successful are reaching far too few of the children we need to be worried about. That is why federal support for these efforts is so important.

The majority resisted funding such programs, according to statements made at the Committee mark-up session, in part because the majority wanted to protect the availability of funds for the construction or expansion of juvenile confinement facilities. However, significant federal funding is already available for that purpose. Under the Violent Crime Control and Law Enforcement Act of 1994, states receive federal grants for the construction of correctional facilities—including juvenile facilities. Approximately \$667 million was appropriated for such grants in FY 1997. But while the statute permits states to use up to 15% of these grant funds for juvenile facilities, in practice the states have devoted only 3% of their grants to that purpose, according to the American Correctional Association. The best way to build more cells for juvenile offenders would be to set aside a specific portion of these prison construction grant funds for juvenile facilities. I offered an amendment to do that at the Judiciary Committee mark-up session, but the amendment was ruled out of order.

B. CONDITIONS RESTRICTING STATES' ELIGIBILITY FOR GRANTS

Second, H.R. 3 as enacted would condition a state's eligibility for the grant funds on the state's laws meeting four requirements: the state would be required to give its prosecutors authority to prosecute individuals age 15 and older for "serious violent crimes"; the state would be required to open records of juvenile adjudications for felony-equivalent behavior to the same extent that adult criminal records are open; the state would be required to impose "graduated sanctions" on juveniles adjudicated delinquent; and the state would be required to permit its judges to fine the parents of juvenile offenders for their children's misconduct.

Only a handful of states meet these conditions. Based on a preliminary review of state laws, it appears that at least the following 15 states will be prohibited from receiving grant funds under H.R. 3, as reported:

Alaska	Ohio
California	Pennsylvania
Illinois	South Dakota
Maine	Texas
Massachusetts	Utah
Missouri	Virginia
New Jersey	Washington
North Carolina	

This list is preliminary and incomplete; I believe that several additional states will be disqualified from receiving funds under H.R. 3 as adopted, but I have omitted them from this list pending a more thorough review of their internal laws and policies. Ultimately, it is likely that only a minority of states would qualify under H.R. 3 as reported.

Accepting, as I do, the majority's view that state juvenile justice systems desperately need resources to lower caseloads and do a better job responding to the juveniles in their jurisdictions, I believe it is counterproductive to bar the majority of the states from getting access to these resources. It simply makes no sense to establish a grant program that will be available to fewer than half the states.

C. WASTE IN THE GRANT ALLOCATION FORMULA

Third, even in states that will receive grants, the allocation formula in H.R. 3, as reported, fails to direct funds to the jurisdictions where they are most needed. Juvenile justice programs—including policing, prosecution, confinement and prevention functions—are operated largely by counties, cities, towns and other local governments. H.R. 3, however, send grant funds to state governments, and permits the states to retain fully 25% of the funding. The money should instead be distributed directly to local governments. Funneling grants through the states adds an unnecessary layer of bureaucracy and will squander precious resources, diluting the effectiveness of what is likely to be an under funded program.

III. LACK OF PROVISIONS ADDRESSING THE UNDERGROUND MARKET IN ILLEGAL FIREARMS

In addition to the lack of prevention funding, there is another glaring omission in H.R. 3—provisions dealing with the illegal trade in firearms. The reason that youth crime is so much more violent and deadly today than in years past is because gangs are better armed than ever before.

Amendments offered by Mr. Conyers and myself at the Committee markup session would have added three crucial provisions to this bill: a prohibition barring anyone with a record of violent juvenile offenses from possessing a firearm; a new federal crime for interstate illegal gun trafficking, with stiff penalties for “gun kingpins” who smuggle 50 or more guns interstate; and a requirement that federally licensed firearms dealers sell child safety locks with firearms.

These reasonable measures would do a great deal to reduce the carnage from unauthorized firearms use, without impinging on the rights of law-abiding gun owners. If we are to launch a comprehensive assault on youth violence, these initiatives must be included.

CHARLES E. SCHUMER.

DISSENTING VIEWS

INTRODUCTION

We dissent from H.R. 3 because it is too extreme in its treatment of juveniles in the system, both in its insistence on prosecuting more juveniles as adults and in allowing juveniles to be housed with adults, and because it fails to include any measures aimed at preventing juvenile crime. Moreover, as written the bill fails to include provisions crucial to the fight against crime including real prevention funding, drug control efforts, gun control efforts, and provisions aimed at targeting gang activity.

The overwhelming majority of juvenile crime is state crime. Very few juveniles who commit crimes wind up in the federal system. As of February 23, 1997, the Bureau of Prisons had 197 juveniles in contract facilities, 13 of whom are serving adult sentences. The remaining 184 are serving juvenile sentences.¹ The Bureau of Prisons received 137 new admissions in fiscal year 1996 and 121 in fiscal year 1995.² Thus, federal juvenile justice reform can be expected to effect no more than 150 children a year. Nonetheless, because juvenile crime is a “hot” political issue, the Congress feels compelled to pass some form of juvenile justice reform legislation.

Given the growing concern of American citizens over juvenile crime, for Congress to pass truly beneficial legislation, we would need to look for ways not only to punish juvenile offenders, but for ways in which we can prevent children from becoming criminals in the first place. H.R. 3 fails in this regard.

Despite public perceptions of high levels of juvenile violence, only 6% of juvenile arrests in 1992 were for violent crimes.³ In 1994, the percentage remained unchanged.⁴ Moreover, with one exception, the level of juvenile crime, including violent crime, has actually declined over the past 20 years.⁵ The exception is juvenile homicides committed with handguns.

The level of juvenile homicides tripled between 1984 and 1994 and the increase was completely firearm related.⁶ Though this statistic is significant, it is important to recognize that juvenile homicide represents only $\frac{1}{10}$ of 1% of all juvenile offenses.⁷ Moreover,

¹Memorandum from Steve Scher, Congressional Relations, Bureau of Prisons, February 28, 1997 (on file with House Judiciary Committee, Democratic staff) [hereafter *BOP Memo*].

²*BOP Memo*.

³Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: A National Report* 100 (Office of Juvenile Justice and Delinquency Prevention, August 1995) [hereafter, *National Report*].

⁴Howard N. Snyder, Melissa Sickmund and Eileen Poe-Yamagata, *Juvenile Offenders and Victims: 1996 Update on Violence* 10 (Office of Juvenile Justice and Delinquency Prevention, February 1996) [hereafter, *1996 Update*].

⁵Michael A. Jones and Barry Krisberg, *Images and Reality: Juvenile Crime, Youth Violence and Public Policy* 9 (National Council on Crime and Delinquency 1994) [hereafter, *Images and Reality*].

⁶*1996 Update* at 2–3.

⁷*1996 Update* at 10.

recent data indicate that the rate of violent juvenile offenses went down in 1995 and the rate of homicides by juveniles has decreased by more than 14%.⁸

I. H.R. 3 ENDANGERS CHILDREN BY ALLOWING JUVENILES TO BE INCARCERATED WITH ADULTS

One of our primary concerns with the majority's legislation is that it allows juveniles to be housed with adults. First, the bill allows juveniles and adults to be housed together in pre-trial detention. Perhaps most disturbingly, this provision would permit children who have not been accused of violent crimes to be held in adult jails. Children charged with petty offenses like shoplifting or motor vehicle violations could be held with adult inmates.

Second, as a condition of receiving funding under the grant program, a state must try juveniles as young as 15 as adults if they commit serious violent felonies. As states often house juveniles convicted as adults with adult inmates, this condition is likely to result in a considerable increase in the number of juveniles housed with adults. Unconcerned, the majority rejected an amendment offered by Mr. Watt of North Carolina that would have added as a condition to the grant program, a requirement that states house juveniles convicted as adults separately from adult inmates.

Prior to passage of the JJDP, abused and neglected children were held in jails and other locked facilities with youth who had committed violent crimes. These children were mistreated, re-abused and exposed to criminal behavior. Children in adult jails often attempt suicide. The suicide rate for such children in adult jails is eight times higher than for children in juvenile detention centers.⁹ Most suicide attempts by children occur during the first 24 hours of confinement.¹⁰ In addition, children who come into contact with adult inmates are often physically or sexually abused.¹¹

There are numerous examples of such cases. In Ironton, Ohio, a 15 year-old girl ran away from home overnight, then returned to her parents. A juvenile court judge put her in a county jail to "teach her a lesson." The girl was sexually assaulted by a deputy jailer on her fourth night in jail.¹²

In Boise, Idaho, 17 year-old Christopher Petermen was held in adult jail for failing to pay \$73 in traffic fines. Over a 14 hour period, he was tortured and finally murdered by other prisoners in the cell, all after another teen-ager had been beaten unconscious by the same inmates only a few days earlier.¹³

In LaGrange, Kentucky, 15-year-old Robbie Horn was confined in an adult facility for refusing to obey his mother. Soon after he was

⁸Federal Bureau of Investigation, *Uniform Crime Reports for the United States* 216 (1995).

⁹*Juveniles in Adult Jails and Lockups: It's Your Move* 3 (Community Research Center for OJJDP Feb. 1985) [hereafter *Jails and Lockups*]; Michael G. Flaherty, *An Assessment of the National Incidence of Juvenile Suicide in Adult Jails, Lockups and Juvenile Detention Centers* 10 (Community Research Forum for OJJDP 1980).

¹⁰Lindsey M. Hayes, "And Darkness Closes In . . . A National Study of Jail Suicides" 10 *Criminal Justice and Behavior* 461, 471 (1983).

¹¹*Jails and Lockups* at 2.

¹²Soler, "Litigation on Behalf of Children in Adult Jails," 34 *Crime and Delinquency* 190, 201 (April 1998) [hereafter *Litigation on Behalf of Children*] (citing *Doe v. Burwell*, 537 F. Supp. 186 (S.D. Ohio 1982)).

¹³*Litigation on Behalf of Children* at 201 (citing *Yellen v. Ada County*, Civ. No. 83-10266 (D. ID. 1985)).

placed in jail he used his own shirt to hang himself.¹⁴ And in Glenn County, California, 15-year-old Kathy Robbins was taken to the local jail for staying out past curfew. After several days, she had a detention hearing but was not released. Immediately after the hearing, she returned to her cell and hung herself.¹⁵

Currently, almost every state and territory is in compliance with the provisions of the JJDP. Weakening the protections included in that Act is unnecessary given the overwhelming compliance and will permit a return to the abuses of the past.

This step backward in the housing of juveniles will ensure that those inmates will be victimized assaulted and abused, both physically and sexually. Moreover, young inmates who cannot survive in such situations will have little choice but to enter protective custody, which is usually a separate secure housing unit in which they spend a great deal of time in isolation—a setting that is especially conducive to suicidal behavior.¹⁶

II. H.R. 3 UNNECESSARILY EXPANDS THE PROSECUTION OF JUVENILES AS ADULTS

H.R. 3 expands federal prosecutors ability to prosecute 13- and 14-year-olds as adults by adding any felony crime of violence; unlawful transfer of a handgun to a juvenile or possession of a handgun by a juvenile; and certain gun trafficking, drug trafficking and explosives trafficking offenses to the list of crimes for which 13 year olds can currently be prosecuted. Current law permits prosecution of juveniles age 15 and up for these crimes, and permits prosecution of 13 year olds for murder, attempted murder, armed robbery or armed sexual assault.

H.R. 3 also gives the discretion to prosecute juveniles as adults to the Department of Justice. It imposes a statutory presumption of adult prosecution for serious crimes, allowing the Attorney General to choose a juvenile proceeding instead. While current law requires judicial approval for prosecution as adult, this provision is eliminated by the majority's legislation.

Finally, in order to receive money under the grant program contained in the bill, states are required to prosecute juveniles as young as 15 as adults for serious violent crimes. We do not believe that the federal government should be requiring states to handle their juvenile offenders in any specific way. Moreover, even if the majority truly believes it is imperative that 15 year olds to be tried as adults, this language is unnecessary.

Thirty-five states have changed their laws in the past two years to prosecute more juveniles in adult court.¹⁷ The states have done this in a variety of ways:

- (1) by increasing the number of offenses for which juveniles can be transferred to adult court after a judicial hearing;
- (2) by lowering the age at which juveniles can be transferred;

¹⁴*Litigation on Behalf of Children* at 201 (citing *Horn v. Oldham County*, CA. No. C-83-208LB (W.D. KY 1985)).

¹⁵*Litigation on Behalf of Children* at 204 (citing *Robbins v. Glenn County*, No. Civs. 85-0675 RAR (E.D. Cal. 1986)).

¹⁶*Transferring Juveniles* at 5.

¹⁷Fox Butterfield, "States Revamping Laws on Juveniles as Felonies Soar," *The New York Times* (May 12, 1996).

(3) by designating certain offenses for which juveniles are automatically prosecuted in adult court;

(4) by presuming that for some offenses, juveniles should be prosecuted in adult courts, but allowing the juvenile to try to prove that he is amenable to treatment so that the judge will grant him a “reverse waiver” back to juvenile court and

(5) by giving prosecutors the authority to decide in individual cases whether young people should be charged in juvenile court or adult court.

In 49 states, juvenile judges have the authority to hear and decide transfer petitions for at least some crimes. In 26 states, certain crimes (usually serious offenses against persons) charged against juveniles of a specified age are excluded by law from the jurisdiction of juvenile courts and 13 states grant prosecutors the authority to decide to try specified juvenile crimes in juvenile or criminal courts.¹⁸ Usually, states have hybrid systems, sometimes giving the judge the authority to decide whether to try a juvenile as an adult while other times leaving the decision in the hands of the prosecutor. Only 16 states give judges sole discretion to make decisions about transferring juveniles to criminal court. In 20 states, judges make some decisions, but state laws exclude certain offenders from juvenile court jurisdiction. And in four states, all three methods are used—judge’s authority to decide, state law provisions, and prosecutorial discretion—for various categories of offenders.¹⁹

The age at which transfer is permitted ranges from 13 to 16, although a majority of states permit the transfer of youths whose offenses, such as murder, fall into a category for which no minimum age is provided.²⁰

The number of juveniles being transferred for trial in adult courts rose 68% (from 7,000 to 11,000) between 1988 and 1992. Transfers against juveniles accused of crimes against persons have increased the most, but transfers for drug offenses and public order offenses have also increased dramatically. Despite the alleged focus on violent crime, however, only 34% of the transferred cases in 1992 involved crimes against persons. Property crimes accounted for 45%, drug crimes 12% and public order offenses, 9%.²¹

In the federal system, current law gives the Attorney General the discretion to seek to prosecute as an adult any juvenile who is at least 15 and has committed a crime of violence, some drug trafficking offenses or some firearms offenses if a court finds the transfer would be in the interests of justice.²² The age at which a juvenile may be proceeded against as an adult drops to 13 if the crime of violence alleged is assault,²³ murder,²⁴ attempted murder,²⁵ or if the juvenile possessed a firearm during the offense, robbery,²⁶ bank

¹⁸ *Transferring Juveniles* at 1.

¹⁹ *Transferring Juveniles* at 1.

²⁰ *Transferring Juveniles* at 2.

²¹ *Transferring Juveniles* at 2.

²² 18 U.S.C. § 5032.

²³ 18 U.S.C. § 1113.

²⁴ 18 U.S.C. § 1111.

²⁵ 18 U.S.C. § 1113.

²⁶ 18 U.S.C. § 2111.

robbery,²⁷ aggravated sexual abuse.²⁸ This provision does not apply if the sole reason for Federal jurisdiction is that the offense took place on Indian territory unless the tribe so desires.

Also under current law, prosecution of a juvenile as an adult is mandatory for any juvenile age 16 or older who commits an offense that would have been a felony had it been committed by an adult can be proceeded against as an adult if either (1) an element of the offense contains as an element the use or threatened use of force against a person; (2) the juvenile has committed certain drug trafficking offenses; or (3) the juvenile committed certain firearms or explosives offenses. In addition, the juvenile must have committed such a federal offense or similar state offense previously.²⁹

As the states have moved to increase the prosecution of juveniles as adults, the proposed legislation would expand federal prosecution of juveniles as adults. This would be done by (1) mandating the prosecution of some juveniles as adults; (2) giving prosecutors increased authority to seek to charge juveniles as adults; and (3) increasing the category of offenses for which judges can use their discretion to transfer juveniles to federal court.

In its zeal to legislate the end of juvenile crime, the majority is ignoring the research that questions the wisdom of prosecuting juveniles as adults. Prosecuting juveniles as adults has been shown to be ineffective by at least two studies, one conducted by Donna Bishop and Charles Frazier at the University of Florida,³⁰ and the other conducted by Jeffrey Fagan at Columbia University.³¹ Both studies matched juveniles for age, present offense, prior offenses, and other characteristics, and reviewed the treatment of those juveniles in juvenile and adult courts. Both studies found that juveniles sent to the adult court system are significantly more likely to be re-arrested—30% more likely—than those kept in juvenile court.

Despite the evidence of the ineffectiveness of this approach, H.R. 3 increases the number of juveniles who will be tried as adults. Good politics, not good policy seems to be dictating our approach to juvenile crime.

III. H.R. 3 UNWISELY OPENS UP JUVENILE RECORDS

Another area of some controversy involves the issue of juvenile records. Under current law, records of federal criminal prosecutions are open to the public, both during and after the trial (except for rare cases in which the judge orders certain records sealed—usually to protect informants). Records of juvenile delinquency proceedings, however, are usually confidential. Federal law authorizes disclosure of such records only in response to law enforcement inquiries or to inquiries from the victim.³² This law prevents the names of juvenile delinquents from being put on the FBI criminal history database.

²⁷ 18 U.S.C. § 2113.

²⁸ 18 U.S.C. § 2241 (a) and (c).

²⁹ 18 U.S.C. § 5032.

³⁰ Donna M. Bishop, et al., "The Transfer of Juveniles to Criminal Court: Does it Make a Difference?" 42 *Crime and Delinquency* 171 (1996).

³¹ Jeffrey Fagan, "The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders" (1996).

³² 18 U.S.C. § 5038.

H.R. 3 would require that federal juvenile records be treated the same as adult records and it would force states to adopt similar policies by making the receipt of grant money contingent on the adoption of such a policy. We are concerned that completely opening juvenile records may brand a child, limiting his or her educational and job opportunities. Moreover, there is some concern that juveniles may actually seek out notoriety by committing crimes. Therefore, we would limit access to juvenile records to law enforcement and appropriate social service agencies.

IV. H.R. 3'S GRANT PROGRAM IS AN UNJUSTIFIED MANDATE TO THE STATES

The grant program in H.R. 3 authorizes \$500 million a year for three years for a juvenile justice block grant program. This would replace the law enforcement block grant program created by the Republicans in 1995. That program, which effectively replaced the 1994 Crime Bill prevention programs, has received approximately \$500 million each of the past two years.

Money would be initially distributed to states on the basis of juvenile population. Each state would be permitted to keep 25% of the money and would be required to pass through 75% to localities on the basis of law enforcement expenditures and violent crime rates. Funds could be used for building and operating juvenile confinement facilities, implementing "accountability-based" sanctions, youth courts and prosecutor initiatives.

Significantly, funding is contingent upon states prosecuting 15 year olds or older for serious violent crimes, treating juvenile records like adult records, using "accountability-based sanctions" in their juvenile justice systems, and permitting parent-accountability orders.

We oppose this program for several reasons. First, as written, it appears that only twelve states—Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Mississippi, Nebraska, New York, North Carolina, Vermont and Wyoming would possibly qualify for funding under this grant. The other 38 states and the District of Columbia would not qualify and would be forced to seriously amend state laws.

We oppose the conditions H.R. 3 sets out for states to receive money, not only because we disagree with most of those conditions, but because we do not believe that Congress should be dictating state laws. In the past, the majority has often argued against the "Washington knows best approach" and in favor of leaving legislative decisions to the states. This grant program is completely at odds with this philosophy; it requires states to take legislative action on four fronts before they can receive money. States must enact laws providing for the prosecution of 15 year olds as adults, they must enact laws opening up juvenile records; they must enact laws providing for graduated sanctions programs; and they must ensure that they have no laws prohibiting judges from making parents responsible for their children's crimes.

In addition, we do not believe that the federal government needs to be spending any more money to build prisons, particularly not prisons to house juvenile offenders. Despite the relatively low incidence of violent juvenile crime, the juvenile justice system in the

United States incarcerates significant numbers of young people for nonviolent, and often quite minor, offenses. In 1992, almost 300,000 juveniles were detained, but only 24% were for offenses against people. The number of juveniles detained for serious violent offenses was much lower and almost half of the juveniles were detained for property offenses while 20% were detained for “public order” offenses such as “disorderly conduct” and liquor law violations.³³

The same situation exists for juveniles incarcerated after disposition. In 1990, more than 65,000 juveniles were admitted to state institutions and less than one-quarter of these were committed for violent offenses.³⁴ One analysis of young inmates in 28 state juvenile corrections systems concluded that less than 14% of juveniles had been committed for serious violent offenses. More than one-half had been committed for property and drug crimes.³⁵

In 1991, 35 states reported 4,350 prison admissions for people age 17 and younger.³⁶ And by 1992, 5,150 of those admitted to state prisons were under age 18 and in 1993, the number was 5,207.³⁷ This means that in 1991, young offenders constitute under 2% of all prison admissions. Of the 5,207 age 17 or younger admitted in 1993, the vast majority came from only 10 states with North Carolina alone accounting for 23.5% of all juvenile admissions.³⁸

In the Federal system, as of February 23, 1997, the Bureau of Prisons had 197 juveniles in contract facilities, 13 of whom are serving adult sentences. The remaining 184 are serving juvenile sentences.³⁹ The Bureau of Prisons received 137 new admissions in fiscal year 1996 and 121 in fiscal year 1995.⁴⁰ Of the 184 individuals serving juvenile sentences, one is 12 years old, one is 13 years old, one is 14 years old, 10 are 15 years old, 22 are 16 years old, 35 are 17 years old, 54 are 18 years old, 33 are 19 years old, 26 are 20 years old and 1 is 21 years old. Of the 13 juveniles serving adult sentences, one is 16 years old, 8 are 17 years old, 2 are 18 years old and 2 are 19 years old.⁴¹

Non-violent offenders constitute the majority of offenders in the juvenile justice system. Led by Massachusetts, which closed down its large institutions in the 1970s, a number of states have shown that effective juvenile justice programs can utilize an array of public and private community-based programs to handle all but the most violent juvenile offenders.⁴² Moreover, incarceration has been shown to be more expensive than use of community placements and to be less effective in reducing future delinquent behavior.⁴³

³³ *National Report* at 141.

³⁴ *National Report* at 165.

³⁵ *Images and Reality* at 27.

³⁶ Dale Parent, *Transferring Serious Juvenile Offenders to Adult Courts 4* (National Institute of Justice Action Report: Research in Action Jan. 1997) [hereafter *Transferring Juveniles*].

³⁷ *Transferring Juveniles* at 4.

³⁸ *Transferring Juveniles* at 4 (citing National Institute of Corrections, *Offenders under Age 18 in State Adult Corrections Systems: A National Picture*, Special Issues in Corrections, Wash., D.C. 1995).

³⁹ *BOP Memo*.

⁴⁰ *BOP Memo*.

⁴¹ *BOP Memo*.

⁴² Steve Lerner, *The Good News About Juvenile Justice* (Commonwealth Research Institute and National Council on Crime and Delinquency 1990).

⁴³ *Images and Reality* at 36-40; Peter W. Greenwood, et al., *Diverting Children from a Life of Crime: Measuring Costs and Benefits* (Rand 1996).

Nevertheless, most states throughout the country continue to lock up large numbers of juveniles charged with non-violent offenses.

Notably, juveniles who are incarcerated as adults are often released early, particularly in states under court orders to reduce adult prison overcrowding. Although from the perspective of juvenile justice officials, transferred youths may have relatively serious records, when compared to the population of adult offenders, the juveniles' records are usually shorter and less serious, making them candidates for early release.⁴⁴

Given that most of the juveniles confined have been confined for non-violent offenses and given that the most effective ways to rehabilitate juvenile offenders do not include incarceration, we oppose the grant program's focus on prison building in the belief that the money would be far better spent preventing children from becoming involved in crime in the first place.

V. H.R. 3 FAILS TO DEAL WITH THE PROBLEM OF DISPROPORTIONATE MINORITY CONFINEMENT

One issue not considered in the majority's legislation is the problem of disproportionate minority confinement. Although African-American juveniles age 10 to 17 constitute 15% of the total population of the United States, they constitute 26% of juvenile arrests, 32% of delinquency referrals to juvenile court, 41% of the juveniles detained in delinquency cases, 46% of the juveniles in correctional institutions, and 52% of the juveniles transferred to adult criminal court after judicial hearings.⁴⁵ In 1991, the public long-term custody rate for African-American youth was nearly five times the rate for white youth.⁴⁶

Between 1983 and 1991, the number of minority youth held in detention centers increased 79% while the number of white youth increased by only 8%.⁴⁷ A study of the California juvenile justice system found that minority youth, particularly African-Americans, consistently receive more severe dispositions than white youth and are more likely to be committed to state institutions than are white youth for the same offenses.⁴⁸

As more juveniles are prosecuted as adults, and are therefore subject to mandatory minimum sentences, we can expect to see a significant increase in the number of African-American juveniles receiving mandatory minimum sentences. The majority's legislation does nothing to address this serious issue.

VI. H.R. 3 FAILS TO ADDRESS SIGNIFICANT ISSUES INCLUDING JUVENILE GUN USE, DRUG USE, GANG ACTIVITY AND PREVENTION

H.R. 3 is also troubling because it purports to definitively address the juvenile crime problem, yet it fails to address many of the issues that contribute to youth crime, namely, guns, drugs and gangs. Most significantly, the majority's bill does not include either a child safety lock provision nor a gun disability for juvenile offenders. The bill also fails to include penalties for illegal gun traffick-

⁴⁴ *Transferring Juveniles* at 2.

⁴⁵ *National Report* at 91.

⁴⁶ *National Report* at 166.

⁴⁷ *National Report* at 144.

⁴⁸ *Images and Reality* at 6.

ing, juvenile handgun possession, or knowingly receiving firearms with obliterated serial numbers.

On the drug front, the majority's bill fails to give the Attorney General the emergency authority to reschedule dangerous drugs, it fails to reschedule two drugs used primarily by teens—gamma hydroxybutyrate (“ghb”) and ketamine. GHB, like Rohypnol which the Committee dealt with last Congress, is odorless and colorless and has been used in numerous date rapes. Ketamine, an animal tranquilizer, has become the drug of choice at clubs and raves and produces powerful hallucinations much like PCP.

Additionally, H.R. 3 fails to address one of the most significant juvenile crime issues: the proliferation of gangs. The bill should have included a provision making it a federal crime for anyone to cross state lines to create a franchise of a criminal street gang, it should have created a new crime for cloning pagers and cell phones, and it should have increased the penalties for witness intimidation.

Finally, and most significantly, H.R. 3 fails to include a meaningful prevention program. The federal government should give local governments money to assist them in finding ways to stop the children in their communities from getting involved in crime in the first place. Money should be available for boys and girls clubs, mentoring programs, after school activities and other programs that are research based, have been proven to work and are cost-effective. In the same vein, money should also be spent on early intervention for youth at risk of committing crimes and intervention programs for first offenders at risk of committing more serious crimes. All of the research indicates, including a 1996 Rand Corporation study, that prevention is the most cost-effective way of dealing with juvenile crime. Despite this proven fact, H.R. 3 allows money to be spent on prevention only after a juvenile has already become involved with the criminal justice system. The majority's general insistence on cost-effective government is nowhere to be seen when it comes to juvenile crime. Apparently, cost-effective crime fighting is not as important as politically effective crime fighting.

CONCLUSION

Because H.R. 3 includes extreme and ineffective provisions while failing to include many elements that would be useful in fighting youth crime, we dissent from the passage of this legislation.

JOHN CONYERS, Jr.
JERROLD NADLER.
MELVIN L. WATT.
SHEILA JACKSON LEE.
BOB SCOTT.
ZOE LOFGREN.
MAXINE WATERS.
BILL DELAHUNT.